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THE PAY EQUITY COMMISSION

Introduction
to Pay Equity
Implementation
Series

March 1988

PAY EQUITY IMPLEMENTATION SERIES/INTRODUCTION

This is the introduction to a number of guidelines designed to help in the self-managed process – or where bargaining agents are involved, the negotiated process – of achieving pay equity. These guidelines are

meant for employers, employees and bargaining agents. Guidelines will be published in a sequence that generally reflects the order in which questions arise in the process of developing a pay equity plan.

Purpose of guidelines

The purpose of these guidelines is to:

- ▶ clarify the responsibility of those involved with pay equity;
- ▶ focus on all relevant sections of the Pay Equity Act pertaining to a single issue; and
- ▶ provide some suggestions as “how to” options.

The examples and illustrations provided are just some options that may be followed. They are not meant to be exhaustive. Employers and bargaining agents may consider other options consistent with the spirit and intent of the pay equity legislation.

If a Review Officer becomes involved in the pay equity process, he or she will be considering the content of the guidelines but will not be limited to the options provided in them. Rather, Review Officers will work with the affected parties and consider the unique circumstances that exist in each employment situation.

Continued...

Role of Pay Equity Hearings Tribunal

Ultimately, the Pay Equity Hearings Tribunal decides whether pay equity is being or has been achieved in a manner consistent with the Pay Equity Act. The implementation guidelines do not restrict the Pay Equity Hearings Tribunal in its review of cases.

Format of guidelines

The table of contents is designed to help users determine which guidelines are relevant to them.

Each guideline (except Guideline 1) will provide information under six headings. Each section is described below:

Significance This section is intended to highlight why the guideline may be important to the reader. By reading this section, potential users can determine whether they need to read the guideline further.

Explanation This section provides explanations and illustrations of how to comply with the Pay Equity Act. It also draws on all the sections of the Act dealing with a particular issue so that they can be discussed together.

These sections are listed in the "Relevant Sections in the Act" portion of the guideline.

Implementation Checklist This section suggests steps that may be followed by employers and bargaining agents.

Relevant Sections in the Act Here all the sections of the Act most relevant to the subject of the guideline are presented.

References In the "Explanation" section of the guideline, references are sometimes made to sections in the Pay Equity Act other than the ones being discussed directly, or to other documents. These references are listed in the "References" section. Where appropriate, additional reading material is also listed.

For Further Information This section provides the phone numbers at the Pay Equity Commission.


Continued...

Additional source of information: Pay Equity Hotlines

Since guidelines must be written to address the most typical situations, it is impossible to cover all potential circumstances. Employers, employees and bargaining agents are encouraged to call the Pay Equity Hotline with their specific questions. These phone numbers, which are provided at the end of each guideline, are:

- | | |
|--------------------------|----------------|
| Ontario-wide (toll free) | 1-800-387-8887 |
| | 1-800-387-8813 |
| Toronto area | (416) 481-3314 |
| | (416) 481-3315 |

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THE PAY EQUITY COMMISSION



Introduction
to Pay Equity
and Answers to
Some Common
Questions about
Pay Equity
March 1988

PAY EQUITY IMPLEMENTATION SERIES #1

The implementation guidelines are intended to aid in the self-managed process – or, where bargaining agents are involved, the negotiated process – of achieving pay equity. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

Pay equity is a concept unfamiliar to many. It is often confused with other terms (for example, employment equity). This guideline briefly defines pay equity and distinguishes it from other concepts. It is written for general purposes only. Readers should note it does not necessarily use the technical definitions of the Act (for example, “job class” is simply referred to as “job”). For those who want more information, a reading list is provided in the “Reference” section below.

EXPLANATION

The fact that an employer may pay men and women doing much the same work the same salary and benefits does not mean that pay equity exists. Pay equity goes beyond “equal pay for equal work”. It involves comparing the compensation for jobs performed mainly by men to the compensation for jobs performed mainly by women – even if the jobs are quite different.

The need for the Pay Equity Act was based on the fact that work traditionally performed by women tends to be undervalued. There are many reasons why this situation has evolved. (For articles and books about this, see “Reference” section below.) The fact that such a situation exists and that the pay associated with “women’s jobs” may be inequitable has led to the passage of the Pay Equity Act.

Continued...

The Pay Equity Act is based on the following concepts:

- ▶ Achievement of pay equity under the Pay Equity Act is intended to be accomplished through a self-managed (or negotiated) process, with minimum government involvement.
- ▶ Jobs performed predominantly by women are the focus. It is always jobs, and not individual employees, that are compared.
- ▶ Such comparisons are made among the jobs of a single employer, not between different organizations.
- ▶ Jobs performed predominantly by women are compared to jobs performed predominantly by men. The former are "female-dominated jobs", while the latter are "male-dominated jobs".
- ▶ Any existing pay inequities are identified by comparing female-dominated jobs with male-dominated jobs, using the criteria of skill, effort, responsibility and working conditions.
- ▶ The employer (and the bargaining agent if there is one) may define the four criteria listed above in any manner, provided that the criteria do not (intentionally or unintentionally) favour men's jobs over women's jobs. That is, a gender-neutral job comparison process must be used.
- ▶ Where a female-dominated job is found to be of equal or comparable value to a more highly paid, male-dominated job, then the female-dominated job must be provided with the same compensation as the male-dominated job.
- ▶ No individual employee's pay can be lowered in order to achieve pay equity.
- ▶ Both men and women performing female-dominated jobs will receive any pay equity adjustments required to ensure their jobs are paid equally to male-dominated jobs of equal or comparable value. However, the compensation of neither women nor men working in male-dominated jobs or gender-neutral jobs will be affected by the legislation.

Continued...

There are allowable exceptions when determining pay equity adjustments.
These may occur when an employee:

- ▶ has greater seniority, and there is a formal, seniority-based pay structure that is gender neutral;
- ▶ is at a higher level in a merit pay system, and there is a formal performance or merit pay system that is gender neutral;
- ▶ is in a temporary training or development assignment that is equally available to male and female employees and that leads to career advancement;
- ▶ is an incumbent in a job whose actual value is less than the current compensation reflects, but the employer chooses not to lower the pay of incumbents (i.e., red-circling); or
- ▶ is in a job for which there is a temporary shortage of people with the needed skills so that the employer has to pay more than what the job is otherwise worth to attract and/or retain employees.

Employers (and bargaining agents) will address the following issues:

- ▶ how the criteria of skill, effort, responsibility and working conditions will be defined,
- ▶ selection of a gender-neutral job comparison method,
- ▶ agreement on job evaluation results,
- ▶ assessment of the extent of pay inequities if any, and
- ▶ how pay equity adjustments should be distributed.

Continued...

Some common questions about pay equity

Question: Will pay equity ensure fair compensation for all employees?

Answer: No. Pay equity addresses one particular issue – the undervaluation of female-dominated jobs of equal or comparable value to male-dominated jobs.

Since pay equity addresses the salary and benefits associated with jobs, it does not directly address the pay of individual employees. For example, the following situations are not covered by the Pay Equity Act.

- ▶ A woman feels unfairly treated because she works harder than a man who is paid a higher salary.

Pay equity comparisons are made between jobs – not individual employees. And the comparison is based on the content of the job in terms of skill, effort, responsibility and working conditions, not the qualifications and/or performance of individual employees.

- ▶ A female occupational therapist believes she should be paid the same as a nurse.

Female-dominated jobs can only be compared to male-dominated jobs. As well, two male-dominated jobs of equal value that are paid different salaries do not come under the purview of the Act.

- ▶ A woman is paid a lower salary than a man who is doing the same job, has the same qualifications and years of service.

Pay equity compares the job rates of female-dominated jobs to the job rates of male-dominated jobs; it does not address the pay of two employees in the same job.

However, a practice such as this one is subject to the Ontario Human Rights Code, 1981, and the Employment Standards Act.

Continued...

Question: Will pay equity affect existing pay differences between bargaining units or between bargaining unit and non-bargaining-unit jobs?

Answer: It may or may not. Pay equity is concerned only with finding a male-dominated job of equal value to a female-dominated job. The Pay Equity Act requires that the search for the equal or comparable male job must first be made within the bargaining unit for a unionized female-dominated job or among non-bargaining-unit jobs for a non-unionized, female-dominated job. If an equal or comparable male-dominated job is not found in this initial search, then one is sought across bargaining unit lines. For example, if a female-dominated job in Bargaining Unit 1 does not have an equal or comparable male-dominated job in Bargaining Unit 1, the employer and bargaining agent can look for an equal or comparable male-dominated job in Bargaining Unit 2 or from among the non-bargaining-unit jobs.

Female-dominated jobs of equal value to an equal or comparable male job must be paid the same compensation. Any such adjustments may affect the internal relativities in an employer's compensation structure.

Question: Are women the only ones benefiting from pay equity?

Answer: No. Both female and male employees working in female-dominated jobs will receive pay equity adjustments if their jobs are of equal or comparable value to higher-paid, male-dominated jobs. A man working in the female-dominated job would be given the same pay adjustments as the women performing that job.

On the other hand, women working in male-dominated or gender-neutral jobs (i.e., without a predominance of either men or women) will not receive any pay equity adjustments.

Continued...

Question: If our organization has a job evaluation system that was installed by competent compensation professionals, could we still have pay equity problems?

Answer: Yes. Intent is not an issue in pay equity. Pay inequities may exist unintentionally because of values and stereotypes that have been around for a long time. Such beliefs are not explicitly stated when job evaluations or other means of determining wages are conducted – but these influences may be present. So, while employers have not intentionally discriminated against jobs traditionally performed by women, the actual hierarchy of salaries associated with men's and women's jobs is not based solely on job content.

Job evaluation reflects the values of the larger society, even though such values have been around so long that we are not particularly conscious of them any more. Thus, job evaluation in the past has reflected biases that undervalue the work with which women have traditionally been associated. By paying careful attention to how gender bias can (unintentionally) enter into the job evaluation process, it is possible to minimize unwanted stereotypes and beliefs to ensure that only the content of the jobs is reflected in compensation rates.

It is also possible for a job evaluation system to be bias free but to be applied in a biased manner. Gender-neutral job comparison requires both a bias-free process and bias-free application.

Question: Is pay equity the same as employment equity or affirmative action?

Answer: No. Employment equity and affirmative action refer to a wide range of policies aimed at the removal of discrimination and the achievement of equality in all aspects of employment.

Employment equity is usually thought of as focusing on recruiting, hiring, promoting and training issues. It includes the disabled, native persons, women and visible minorities. It may also include child care and maternity leave that would help women, many of whom are parents, to achieve equal footing in the workplace.

Pay equity is designed to correct compensation inequities, while employment equity will move women into jobs traditionally performed by men. Employment equity is compatible with pay equity: they just address different equity issues.

Continued...

Question: Doesn't pay equity ignore market forces?

Answer: Wages and salaries for jobs are generally determined by a number of factors – job content, supply and demand, and traditional compensation patterns.

Pay equity emphasizes job content as the basis on which the pay for female-dominated jobs should be determined. However, compensation professionals routinely survey the market to determine the going rate for various jobs. This data is used by some employers to help determine their general pay levels. Pay equity does not disregard the market for male-dominated and gender-neutral jobs; it only addresses inequities within the company. Furthermore, the Act allows that in the case of temporary skills shortages, an employer could pay a male-dominated job more than a female-dominated job of equal or comparable value until the skills shortage ends.

Question: Why don't women who want more money go into male-dominated jobs with higher salaries?

Answer: If a female-dominated job is of equal or comparable value to a male-dominated job, it should not be paid less simply because the work is being done by women. Salaries assigned to jobs should be based on the job content, not the gender of those doing the work. The suggestion that women performing jobs of equal value to those performed by men should change jobs in order to earn more money ignores the existing pay inequities. Making some secretaries managers, for example, does not make it right to pay other secretaries less than their jobs are worth, or less than male jobs of comparable value.

Continued...

REFERENCES

Articles and books

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- R.R. Pierson. "The History of Women and Paid Work." *Women's Paid and Unpaid Work: Historical and Contemporary Perspectives*. Editor: P. Bourne. Toronto: New Hogtown Press, 1985.
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- H. Hartman. *Comparable Worth*. Washington, D.C.: National Academy Press, 1985.
- D.J. Treiman and H. Hartman. *Women's Work and Wages: Equal Pay for Jobs of Equal Value*. Washington, D.C.: National Academy Press, 1981.

FOR FURTHER INFORMATION CALL:

Pay Equity Hotlines:

- | | |
|--------------------------|----------------------------------|
| Ontario-wide (toll free) | 1-800-387-8887
1-800-387-8813 |
| Toronto area | (416) 481-3314
(416) 481-3315 |

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THE PAY EQUITY COMMISSION



Government
Publications
Definition
of Employer

March 1988

PAY EQUITY IMPLEMENTATION SERIES #2

The implementation guidelines are intended to aid in the self-managed process – or, where bargaining agents are involved, the negotiated process – of achieving pay equity. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

The term employer is not defined in the Pay Equity Act. However, the concept of an identifiable employer is central to the Act, and the term appears in various sections. The determination of employer is of concern in those situations where an employment relationship exists, but where there is uncertainty about which of two or more entities the employer is.

Under the Pay Equity Act, the employer must undertake certain actions and is liable for compliance. How the employer is defined ultimately affects the nature of the relevant establishment(s) and the comparisons that can be made between female-dominated job classes and male-dominated job classes. In addition, the payroll of the employer determines the amount of money that must be spent on pay equity adjustments in any one year.

Continued...

EXPLANATION

In the majority of cases, employers, bargaining agents, and employees know who the employer is. If this is the case, this guideline need not be referred to further.

In those cases where there is uncertainty about who the employer is, this guideline may be of assistance.

No single criterion governs the determination of who the employer is, but the following concepts have been used in legal decisions:

- ▶ who exercises direction and control over the employees;
- ▶ who determines compensation;
- ▶ who hires, disciplines and dismisses employees;
- ▶ who the employees perceive to be the employer;
- ▶ whether there was an intention to create an employer-employee relationship.

The definition of employer under the Pay Equity Act will likely be consistent with the decisions of the Ontario Labour Relations Board, Employment Standards adjudicators, the Workers' Compensation Appeals Tribunal, and the courts.

Corporate structure alone will not bind the Pay Equity Hearings Tribunal in its determination of employer. Such factors as established human resource policies, collective agreements and negotiation patterns may also be important.

IMPLEMENTATION CHECKLIST

In most cases, the determination of employer is relatively straightforward.

In more complex cases, corporate ownership, organizational structure and financial interrelationships may make the employer more difficult to identify. In such circumstances, the criteria listed above and employment law jurisprudence should be considered.

Continued...

RELEVANT SECTIONS IN THE ACT

The term employer is used throughout the Act.

REFERENCES

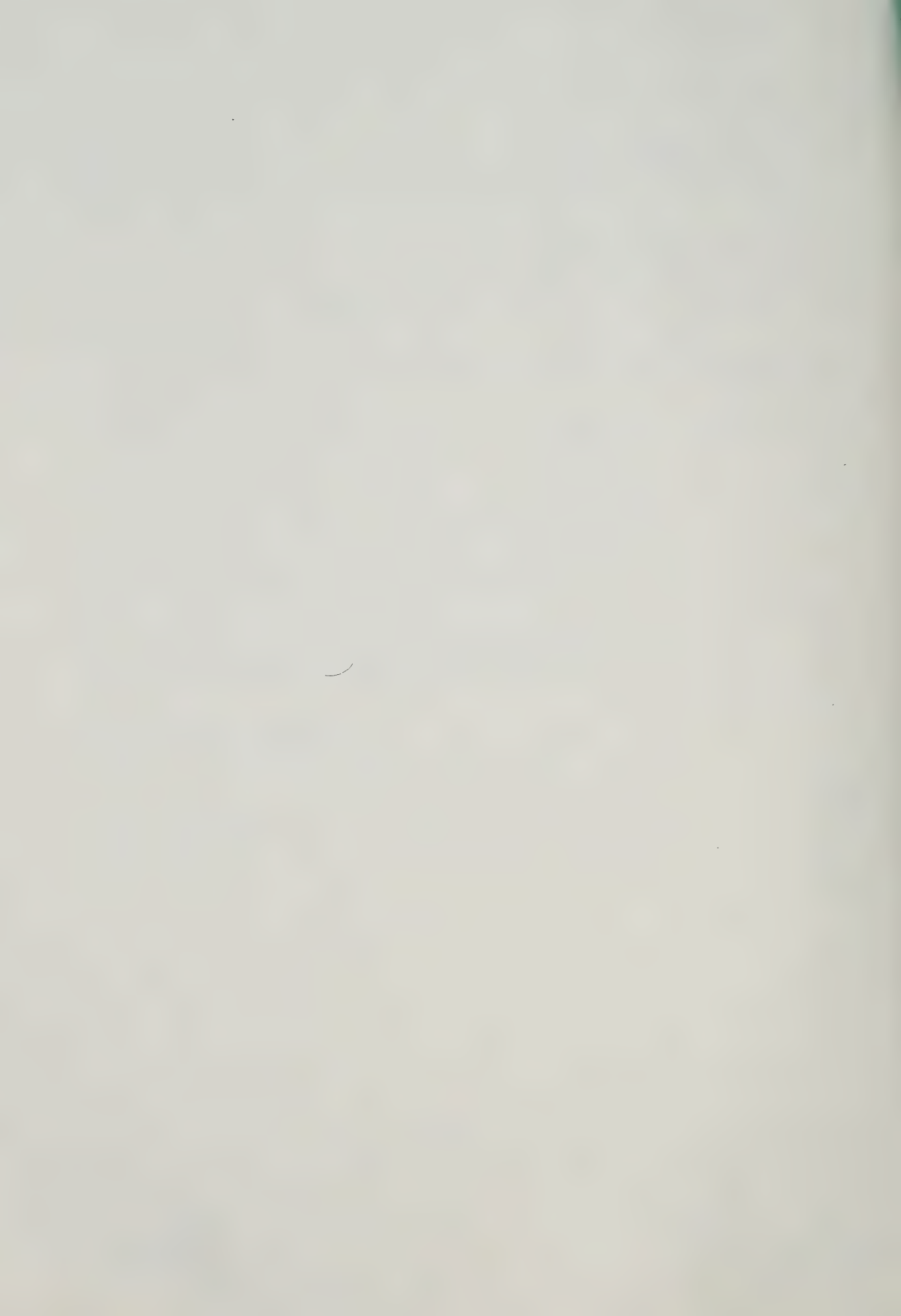
Case law in this area exists from the Ontario Labour Relations Board, Employment Standards adjudicators, the Workers' Compensation Appeals Tribunal and the courts.

FOR FURTHER INFORMATION CALL

Pay Equity Hotlines:

Ontario-wide (toll free)	1-800-387-8887
	1-800-387-8813
Toronto area	(416) 481-3314
	(416) 481-3315

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THE PAY EQUITY COMMISSION

Calculating
the Number of
Employees
in the
Private Sector

March 1988

PAY EQUITY IMPLEMENTATION SERIES #3

The implementation guidelines are intended to aid in the self-managed process – or, where bargaining agents are involved, the negotiated process – of achieving pay equity. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

For private sector employers the number of employees determines:

- ▶ whether an employer is covered by the Act;
- ▶ whether an employer is required to post a pay equity plan; and
- ▶ the required dates for posting a pay equity plan and making the first pay equity adjustments (if needed).

Private sector employers who have 10 or more employees on January 1, 1988 or who employ 10 or more employees any time after this date are covered by the Act (see Section 3). Employers with 10 to 99 employees on January 1, 1988 may choose to post a pay equity plan (see Section 20). Employers with 100 or more employees on January 1, 1988 must post a pay equity plan (see Section 11).

The mandatory posting dates (Section 10) and dates for the first pay equity adjustment (Section 13(2)(e)) are based on the number of employees as outlined on the following page:

Continued...

No. of Employees	Mandatory Posting	First Adjustment
Public Sector		
Not a factor	January 1, 1990	January 1, 1990
Private Sector		
500 or more	January 1, 1990	January 1, 1991
100 – 499	January 1, 1991	January 1, 1992
50 – 99*	January 1, 1992	January 1, 1993
10 – 49*	January 1, 1993	January 1, 1994

(*Employers with 10 to 99 employees may elect to post a pay equity plan.)

EXPLANATION

This interpretation is written for private sector employers, employees and unions. All public sector employers are covered by the Act regardless of the number of employees.

Definition of an employee when determining employer size

When determining the number of employees, all full-time and part-time employees are included whether working on a regular or casual basis, except students working during their vacations. (See the Act, Section 1(1) employee).

Determining the number of employees

The number of employees refers to all employees of an employer throughout Ontario.

The calculation of the number of employees is determined with respect to the employer not to the establishment. Therefore, once the number of employees is determined, all an employer's establishments are subject to the same set of obligations and time frames for compliance, regardless of the number of employees in each establishment.

For further information, see Implementation Series #4: Establishment.

Continued...

Relevant period for calculating the number of employees

The Pay Equity Act became effective January 1, 1988. For private sector firms in existence on this date, calculation of the number of employees is the average number of employees employed from January 1, 1987, to December 31, 1987, or that part of 1987 that the organization was in existence. Employers are advised to calculate their number of employees while accurate 1987 information is readily available.

The next section discusses how to calculate the average number of employees. However, three specific circumstances require clarification first. These are:

► Growth after January 1, 1988

Private sector employers with fewer than 10 employees as of January 1, 1988, but who employ 10 or more employees after this date, are covered by the Act when the tenth employee is hired (see Section 3(2)). They must comply immediately rather than according to the mandatory posting-adjustment schedule on page 2.

Employers who had at least 10 employees as of January 1, 1988, and who then increase their number of employees, are governed by the obligations and time frames for compliance corresponding to their average number of employees during 1987. For example, an employer with 422 employees during 1987 continues to observe the January 1, 1991 mandatory posting date even if the number of employees grows to 500 after January 1, 1988.

► Staff reductions after January 1, 1988

Employers who have 10 or more employees on or after January 1, 1988, but who reduce their staff to fewer than 10 employees after this date, remain covered by the Act (Section 3(2)). The timing for the posting of a pay equity plan (if required) and for making pay equity adjustments continues to be determined by the average number of employees during 1987.

Continued...

► **Start of new organizations after January 1, 1988**

A new employer who employs 10 or more employees after January 1, 1988 is covered by the Act (Section 3(2)) and must comply from the start of its operations (Section 7).

The underlying principles in the three situations above are:

- a) Once the size of the employer with 10 or more employees is determined, it does not have to be recalculated – regardless of changes in the number of employees. Obligations and timelines are determined by the average number of employees during 1987.
- b) Regardless of subsequent changes in size once an employer becomes subject to the Act, the employer remains subject to the Act.

How to calculate the average number of employees

The average number of employees (see definition above) can be calculated in several ways. It is important that the method selected provides a fair representation of the actual number of employees throughout the year. That is, the average should be calculated using the method that best recognizes employment fluctuations. For example, in a seasonal business, where a large number of employees work only in June, July, and August, an average based on monthly or quarterly figures might be more appropriate than an average based solely on January and December employment figures – since these months do not reflect the summer payroll.

Alternatively, for employers with stable employment, an average based on the number of employees working in January and in December may be fair.

No averaging method that attempts to defeat the purpose of the Pay Equity Act is acceptable.

Some illustrative averaging methods are given below. This list is not exhaustive of all possible options.

Continued...

Illustrative averaging methods

Monthly: The sum of the number of employees on payroll for each month of the year, divided by 12.

Quarterly: The sum of the number of employees on payroll for each quarter, divided by 4.

Annually: Number of employees on first payroll in January plus number of employees on last payroll in December, divided by 2.

Rather than calculating an average, an employer may choose to use the largest number of employees employed at any point during 1987 as the number of employees for the purpose of the Pay Equity Act. An employer who chooses this option would be subject to all the obligations and time frames for compliance set out in the Pay Equity Act for employers with this number of employees.

It is not necessary to determine the exact number of employees but only to determine which of the following categories the employer fits into:

10 to 49 employees

50 to 99 employees

100 to 499 employees

over 500 employees

The categories determine particular obligations and time frames for compliance under the Pay Equity Act.

IMPLEMENTATION CHECKLIST

- a) Only private sector firms need to calculate their number of employees since all public sector – including broader public sector – organizations are covered by the Pay Equity Act, regardless of the number of employees.
- b) Identify the employer (See Implementation Series #2: Employer). Select either (c) or (d) below as a means of calculating the number of employees.
- c) Identify the greatest number of employees employed at any time during 1987 in Ontario, using the following definition of employees:

Continued...

-
- Employees are all full-time and part-time employees whether working on a regular or on a casual (including seasonal and temporary) basis, except students working during their vacations.

If this number is fewer than 10, the employer is not covered by the Act until the tenth employee is hired.

If this number is 10 or more, it may be used as the average number of employees.

- Determine which of the following categories the employer belongs to:

10 to 49 employees

50 to 99 employees

100 to 499 employees

over 500 employees

- Consult Sections 10 and 13(2)(e) to determine obligations and timeframes for the posting of a pay equity plan (if required) and for the date when pay equity adjustments must begin. (See chart in “Significance” section on page 1 above for a summary of the information in Sections 10 and 13(2)(e).)

RELEVANT SECTIONS IN THE ACT

Section 1 (4) calculation of number of employees

If Part II [of the Act: Implementation in Public Sector and Large Private-Sector Employers] applies to an employer, a reference in the Act to the number of employees of the employer shall be deemed to be a reference to the average number of employees employed in Ontario by the employer during the twelve-month period preceding the effective date or during the period from the day the first employee commenced employment in Ontario with the employer until the effective date, whichever period is shorter.

Section 3 application

- (1) This Act applies to all employers in the private sector in Ontario who employ ten or more employees, all employers in the public sector, the employees of employers to whom this Act applies and to their bargaining agents, if any.
- (2) If at any time after the coming into force of this Act an employer employs ten or more employees in Ontario, this Act applies with respect to the employer, even if the number of employees is subsequently reduced to fewer than ten.

Continued...

REFERENCES

Implementation Series #2: Definition of Employer

Section 1(1) employee

Section 1(1) establishment, and Implementation Series #2: Definition of Establishment

Section 7 Pay equity required

Section 10 Definition of mandatory posting date

Section 11 Application of pay equity plans

Section 13(2)(e) Pay equity plans required

For employers with 10 to 99 employees, see

Section 18 Application for Small Private Sector Employers

Section 19 Pay Equity Plans

Section 20(1) Posting of Notice

Section 20(2) Application of Part II

Section 21 Transition

FOR FURTHER INFORMATION CALL:

Pay Equity Hotlines:

Ontario-wide (toll free)	1-800-387-8887
	1-800-387-8813
Toronto area	(416) 481-3314
	(416) 481-3315

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March 1988

THE
PAY EQUITY
COMMISSION

PAY EQUITY IMPLEMENTATION SERIES #4

The implementation guidelines are intended to aid in the self-managed process – or, where bargaining agents are involved, the negotiated process – of achieving pay equity. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

Pay equity plans must be prepared for each bargaining unit and for non-union employees in each of an employer's establishments. Consequently, deciding what the establishment is will partly determine the number of pay equity plans needed. It will also help determine what job classes can be compared to one another.

EXPLANATION

The Act states that an establishment is all the employees of an employer who work in a geographic division. A geographic division, for the purposes of pay equity, can be a county, territorial district, or regional municipality.

An employer may decide to expand the definition of establishment to include more than one geographic division. The determination of establishment for unionized employees must be agreed to by the bargaining agent(s) involved. Where non-unionized employees are concerned, the employer may choose to expand the definition of establishment, regardless of what is undertaken for unionized employees.

However, an employer may not subdivide a geographic division. For the purpose of defining establishment, all workplaces of the employer in a given geographic division must be included as part of that establishment.

Continued...

Centralized Bargaining

The Act allows employers who normally negotiate a collective agreement together to continue that practice if they prefer for the purposes of pay equity, providing that the bargaining agent or agents agree. (See Section 2(1).)

Municipalities

Two or more municipalities in the same geographic division can come together for the purposes of preparing a pay equity plan, provided that the bargaining agent(s) agree. Agreement in this case must also be obtained from non-union employees. Municipalities may not expand the definition of establishment beyond one geographic division. (See Section 2(2).)

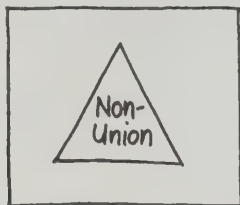
Number of Pay Equity Plans Within an Establishment

A pay equity plan must be prepared for all non-union employees in an establishment. One must also be prepared for each separate bargaining unit represented by a certified bargaining agent in an establishment. Consequently, one employer, even within one geographic division, can have several pay equity plans, depending on the nature of the workplace.

Continued...

-
- Example: One geographic division with only non-unionized employees

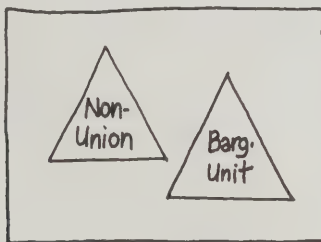
Requirement: One pay equity plan



One establishment, one plan

- Example: One geographic division, with one bargaining unit and a group of non-union employees

Requirement: Two pay equity plans: one for the bargaining unit and one for the non-union group of employees.



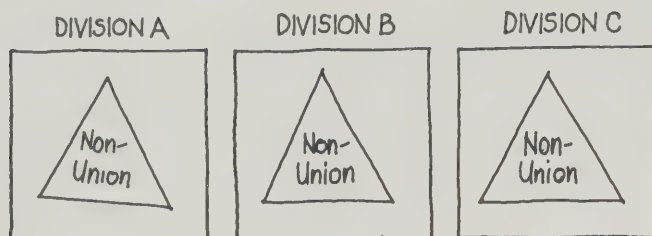
One establishment, two plans

Continued...

- **Example:** Employees in three different geographic divisions, with only non-union employees.

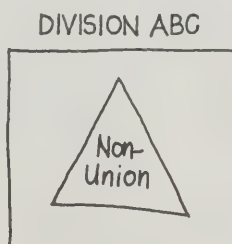
Requirement: There are three choices in this example:

1. Three pay equity plans, one for each establishment, if the employer does not wish to combine geographic divisions.



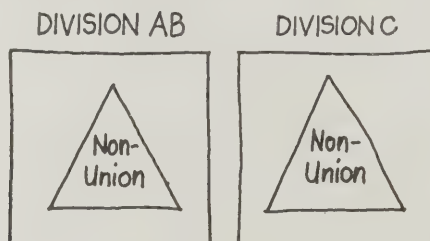
Three establishments, three plans

2. One pay equity plan, if the employer decides to combine all three geographic divisions into one establishment.



One establishment, one plan

3. Two pay equity plans, if the employer decides to combine two geographic divisions into one establishment, while leaving the third separate.



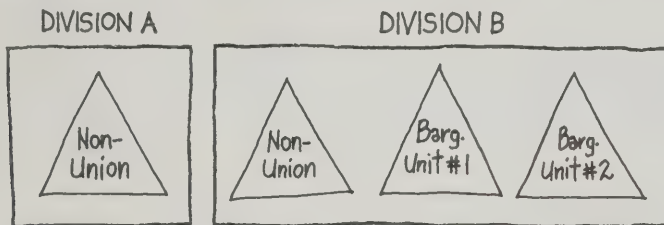
Two establishments, two plans

Continued...

► **Example:** Two geographic divisions. Only non-union employees in one division (A). Two different bargaining units, represented by different bargaining agents, and a group of non-union employees in the other (B).

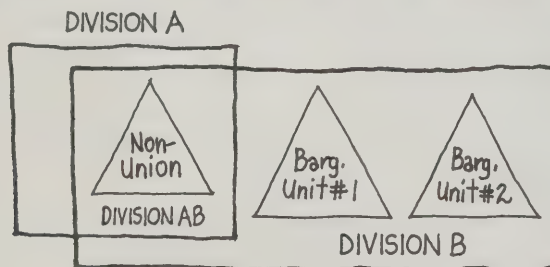
Requirements: There are three choices in this example:

1. If the decision is made to retain two separate geographic divisions, then four pay equity plans are needed: two covering the non-union employees in each establishment and two covering each of the two bargaining units in the second establishment.



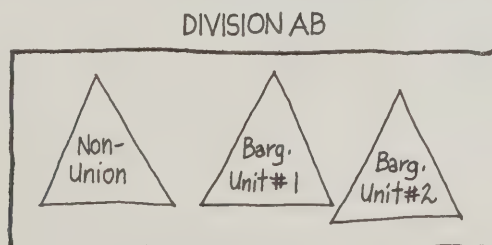
Two establishments, four plans

2. If the decision is made to combine the two geographic divisions, but only for the non-union employees, then three pay equity plans are needed: one for all non-union employees, and one for each of the bargaining units as above.



One establishment (DIVISION AB), one plan for non-union employees, two plans for two bargaining units in one establishment (DIVISION B) → three plans.

3. If the decision is made to combine the two geographic divisions for all employees, then three pay equity plans are still needed: one for all non-union employees and one for each of the bargaining units as in the second option.



One establishment, three plans

Continued...

However, under this option the establishment for the bargaining unit jobs would be the entire employer, compared to only one of the geographic divisions, as in the second option.

Note: Non-union employees can and may file a complaint concerning the determination of establishment.

Job comparisons

The first place to look for male-dominated job classes with which to compare female-dominated job classes is within the bargaining unit (if the plan is for unionized employees) or within the non-union group (if the plan is for non-union employees).

If no male-dominated job classes of equal or comparable value can be found, then the search must be extended to other bargaining units and the non-union group within an employer's establishment. This is why determining how establishment is defined for a given employer affects what jobs can potentially be compared.

IMPLEMENTATION CHECKLIST

- a) Refer to Implementation Series #2: Definition of Employer.
- b) Identify the establishment(s) for each employer.
- c) Negotiate or decide an expansion to establishment if such is desired.
- d) For each establishment, determine the number of bargaining units and verify that bargaining-unit employees exist within each establishment. (This determines the number of pay equity plans required.)

Continued...

RELEVANT SECTIONS IN THE ACT

Section 1 (1) **establishment**

establishment means all the employees of an employer employed in a geographic division or in such geographic divisions as are agreed upon under Section 14 or decided upon under Section 15.

geographic division means:

- (a) a county, territorial district or regional municipality described in the Territorial Division Act,
- (b) the Municipality of Metropolitan Toronto and, for the purposes of this Act, the Territorial District of Sudbury and the Regional Municipality of Sudbury shall be considered to be one geographic division.

Section 7 (1) **pay equity required**

Every employer shall establish and maintain compensation practices that provide for pay equity in every establishment of the employer.

Section 14 (3) **establishments with bargaining units**

As part of the negotiations required by subsection (2), the employer and the bargaining agent may agree, for the purposes of the pay equity plan,

- (a) that the establishment of the employer includes two or more geographic divisions; and
- (b) that a job class is a female job class or a male job class.

Section 15 (2) **establishments without bargaining units**

For the purposes of a pay equity plan required by this section...the employer may decide,

- (a) that the establishment of the employer includes two or more geographic divisions; and
- (b) that a job class is a female job class or a male job class.

Continued...

REFERENCES

Implementation Series #2: Definition of Employer

Section 1(1) employee

Section 2(1) and 2(2) combined establishments

Section 6(4) and (5) undertaking job comparisons

Territorial Division Act, obtainable at:

Publications Services

Ministry of Government Services

880 Bay Street, 5th Floor

Toronto, Ontario

M7A 2B6

Pay Equity Commission Information Officers can also advise clients on establishment locations under this Act.

FOR FURTHER INFORMATION CALL:

Pay Equity Hotlines:

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 1-800-387-8813

Toronto area (416) 481-3314
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THE PAY EQUITY COMMISSION

Determining
Job Class

May 1988

Government
Publications

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PAY EQUITY IMPLEMENTATION SERIES #5

The implementation guidelines are intended to aid in the self-managed process — or, where bargaining agents are involved, the negotiated process — of achieving pay equity under the Pay Equity Act. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

The Pay Equity Act (Section 4(2) and Section 12) requires that female job classes be compared with male job classes in each establishment. When jobs are combined into job classes, fewer individual jobs need to be evaluated. However, a job class may in some situations comprise a single job.

EXPLANATION

A “job class” is defined as “those positions...that have similar duties and responsibilities and require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule, salary grade or range of salary rates” (Section 1(1)).

It may be useful to distinguish between the terms “position” and “job”.

A “position” is a collection of the duties and responsibilities that constitute the total work assignment of an individual employee.

Most employees work in a “position”. That is, there are as many positions in an organization as there are employees and vacancies.

A “job” is two or more positions having the same key duties and responsibilities, or a single employee position.

Continued...

The slight differences between two similar positions are usually not significant enough for them to be treated differently.

In the case of a single-incumbent job, the position and the job are the same.

Criteria for determining job class

Job data and, where used, descriptions and job specifications should reflect what is actually involved in the jobs at the time the pay equity plan is being developed.

The criteria outlined in Section 1(1) of the Act will be discussed in the following order:

1. similar duties and responsibilities;
2. similar qualifications;
3. same compensation schedule, salary grade or range of salary rates;
4. filled by similar recruiting procedures.

Throughout the process, consideration should be given to the equal pay for equal work requirements of the Employment Standards Act. That is, employers cannot identify jobs as similar under these criteria and at the same time maintain different job rates for them.

Criterion #1: Similar duties and responsibilities

The issue is, how similar is similar? As "similar" is a relative term, the intent of the concept "job class" must be kept in mind.

Employers are allowed to group jobs that are essentially alike. This reduces the number of job-to-job comparisons that have to be made and thus simplifies the comparison process. It also enables those jobs that are similar to be treated the same for pay equity purposes.

If jobs that are too different are classed together, adjustments could be inappropriate and unfair to some employees. On the other hand, if only jobs that are virtually the same can be classed together, this would lead to many job comparisons. (A job that is unique in the organization will constitute a class by itself.) It is important to be clear on what jobs can reasonably be classed together.

Similarity in jobs means similarity of duties and responsibilities (the job content). These are directly related to the skill factor.

Continued...

For example, some lab technicians in a hospital may do chemical analyses of tissue, while others may analyze drugs. Although their duties and responsibilities are not identical, they are similar enough in skill base, in the methods and procedures required, and in instruments and equipment used that they would reasonably be included in the same job class.

In another example, clerical jobs may have different emphasis on such duties as typing, filing or reception activities, but their overall responsibilities would be similar enough to make it reasonable for them to be grouped into one job class.

Criterion #2: Similar qualifications

Similar qualifications does not mean identical qualifications, but rather ones that are almost the same. For example, in considering the qualification of experience, a period of experience within a band of time — in months or years — could be viewed as “similar”. In the same vein, a postgraduate degree in one subject may be similar to a degree in another subject but dissimilar to a degree in a third.

It is important to be consistent in defining “similar” in terms of basic experience, education and other qualifications.

The degree of similarity in qualifications required for jobs to be in the same job class may vary from one establishment to another. It depends on how specialized the jobs are within each establishment. Large employers tend to be more highly specialized. For example, in a large organization there may be two separate jobs — receptionist and word processing operator — where in a smaller organization, the receptionist may also do word processing and vice versa and therefore both jobs could be included in a single job class.

For pay equity purposes, the basic or “must have” qualifications needed to do the job, not the qualifications of the incumbents, should be considered.

“Stated” qualifications are those that are written down as part of the requirements for the job. “Actual” qualifications are those held by the people hired.

If an employer consistently hires at or above the stated qualifications for a job, or hires below stated qualifications only because people with those stated qualifications are not available, then “must have” qualifications are the stated qualifications.

Continued...

On the other hand, if an employer consistently hires below the stated qualifications, when people with the stated qualifications are available, the “must have” qualifications are the actual qualifications of the incumbents.

When assessing qualifications, it is advisable to look both at the stated qualifications and at actual past practices. The most essential qualifications should probably be used in assessing this criterion. The stated or defined qualifications would be appropriate if they are adhered to in practice by the employer.

Consistent with this, job qualifications that are preferred or desired but not absolutely required should not be considered in the determination of job class.

The qualifications considered should reflect what is actually required to perform the job.

Criterion #3: Same compensation schedule, salary grade or range of salary rates

To belong to the same job class, jobs paid on the same compensation schedule must also be paid in the same salary grade or in the same range of salary rates on that schedule. Again, it is useful to consider the accepted definitions for some common compensation terms.

“Compensation schedules” are made up of one or more salary rates or ranges of salary rates. For example:

<u>Salary Grade</u>	<u>Range of Salary Rates</u>		
	<u>Start</u>	<u>Six Months</u>	<u>One Year</u>
01	\$6.00	\$6.50	\$7.00
02	6.25	6.75	7.25
03	6.55	7.10	7.75

“**Salary grade**” is the term used when a salary rate or range of salary rates is applied to similarly valued jobs that tend to have dissimilar duties and responsibilities — that is, they are likely to be in different job classes.

A salary grade may also result from applying a job evaluation system. For example, in a point system, jobs evaluated at 200 to 225 points may be grouped together in the same salary grade and paid the same salary rate or range of salary rates.

Continued...

Some bargaining agents and employers may currently use terms such as “job class” or “job category” or “pay grade” to mean “salary grade” as defined here, and these local meanings of terms should be kept in mind when working with them.

“Salary rate” or “range of salary rates” means the amount of money — in hourly, weekly, monthly or annual terms — assigned to a job. A range of salary rates, or salary range, is characterized by a minimum and maximum salary assigned to a particular job. Job incumbents are paid anywhere between the minimum and maximum rates, usually depending on merit or seniority/service, or a combination of both. (This should not be confused with the term “job rate” as defined under the Act.)

Criterion #4: Filled by similar recruiting procedures

Recruiting procedures are often associated with qualifications. Where one recruits — for example, union hiring hall or college campus — is affected by the qualifications sought.

The scope of recruiting often differs from one job to another. For example, some jobs are recruited locally, while others are recruited provincially or even nationally. This does not mean that the recruiting procedures differ with respect to qualifications, so the scope of the recruiting campaign does not affect the determination of job class.

Usually, the kind of recruiting — internal or external, newspaper or radio ad — is unimportant in the determination of job class.

IMPLEMENTATION CHECKLIST

- a) Make sure that the required data — job descriptions and/or specifications — for relevant jobs within the establishment exists and is available.
- b) Identify all jobs involving similar duties and responsibilities.
- c) For jobs identified in b), identify all those involving similar “must have” qualifications.
- d) For jobs identified in c), identify all those having the same compensation schedule and salary grade, salary rate or range of salary rates. Label them as a job class.
- e) Remember that the way jobs are grouped may have implications for compliance with the “equal pay for equal work” provisions of the Employment Standards Act.

Continued...

RELEVANT SECTIONS IN THE ACT

Section 1(1) **job class**

"job class" means those positions in an establishment that have similar duties and responsibilities and require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule, salary grade or range of salary rates.

Section 4(2) **Identification of systemic gender discrimination**

Systemic gender discrimination in compensation shall be identified by undertaking comparisons between each female job class in an establishment and the male job classes in the establishment, in terms of compensation and in terms of the value of the work performed.

REFERENCES

Section 1(1) **job rate**

Section 1(7) **Disabled, etc., not to be classed separately**

Section 4 **Purpose**

Section 12 **Comparison of job classes**

FOR FURTHER INFORMATION CALL

Pay Equity Hotlines:

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THE
PAY EQUITY
COMMISSIONUsing the
"Group of Jobs"
Approach

May 1988

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PAY EQUITY IMPLEMENTATION SERIES #6

The implementation guidelines are intended to aid in the self-managed process — or, where bargaining agents are involved, the negotiated process — of achieving pay equity under the Pay Equity Act. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

The provisions in the Pay Equity Act regarding a group (or series) of jobs allow but do not require employers and bargaining agents to use one job class as representative of a number of related job classes. (See Section 6(6) to (10).) With this "group of jobs" approach, fewer comparisons between female and male job classes need to be made in the pay equity process. The group of jobs approach is intended to be used only for job series that are predominantly female.

EXPLANATION

A "group of jobs" is defined in Section 6(10) as a "series of job classes that bear a relationship to each other because of the nature of the work required to perform the work of each job class in the series and that are organized in successive levels."

In other words, a group of job classes is an already accepted progression of jobs involving similar kinds of tasks and duties performed at different levels of skill, effort, responsibility, and working conditions. For example,

Clerk	or	Assembler I
Senior Clerk		Assembler II
Clerk Typist		Assembler III
Intermediate Clerk Typist		
Senior Clerk Typist		

It is typical for employees to be promoted to successive job classes within a group of jobs.

Continued...

Usually, job classes within a group of jobs already have some established pay relationships. Such pay differentials may be expressed in dollar terms or in percentages. For example, job class I may be paid \$2,000 per year less than job class II, job class II may be paid \$2,000 per year less than job class III, and so on.

In another job series, each level may be paid 15 per cent more than the level below it.

Pay differentials are intended to reflect differences in the levels of skill, effort, responsibility, and working conditions between job classes in the series.

Group of jobs approach under the Pay Equity Act

For this approach to be used, a group of jobs must have 60 per cent or more female employees overall (Section 6(6)), or be determined by a review officer (Section 6(7)) or be agreed to by an employer and a bargaining agent (Section 6(8)). A group of jobs may have some male job classes in it.

A single job class in a job series can be used to represent the whole group of jobs. The “representative job class” is the one (whether female, male, or neutral) with the greatest number of employees. If two or more job classes in the same series have the largest (and equal) number of employees, then some possible “decision rules” may be required to determine which will be used as the representative job class. These could include, but are not limited to, the following:

- ▶ If one job class is female dominated and the other is male dominated, the female one may be selected; or
- ▶ the job class with the most vacancies (which would change the count) may be selected; or
- ▶ the job class that is closest to the middle of the series, or higher, or lower in the series could be selected; or
- ▶ the decision could be based on the flip of a coin.

The representative job class is the only one from the series that must be evaluated and compared to male job classes. If this representative class is found to be paid less than an equal or comparable male job class, the same adjustment in dollar terms must be given to all the job classes in the group of jobs.

The group of jobs approach ensures that pay relationships between the job classes in the series remain. (Because pay equity adjustments must be made in dollar terms, percentage pay differentials between the job classes will change.)

The group of jobs approach could be used for some or all job series.

Continued...

Some potential features of using the group of jobs approach

- ▶ Fewer job classes need to be evaluated (for example, one rather than five clerical job classes, and one rather than three assembler job classes in the examples given above.)
- ▶ Jobs that might be excluded from the pay equity process if individual job classes are used to determine eligibility may be included with the group of jobs approach.
- ▶ An identical pay equity adjustment must be given to all job classes in a group of jobs. Therefore, dollar relationships between job classes in the group are maintained.

For example, assume that job classes I to V have a \$2,000 per year differential between each successive level before pay equity adjustments are made. If these five job classes are treated as a series or group of jobs, the one with the most members would be the representative job class and the pay equity adjustments (if any) identified for it would be applied to the job rate of all classes in the group. Thus, the \$2,000 pay differential between each successive class would be maintained.

On the other hand, if these five jobs classes are treated individually, then each one might have to be adjusted by different amounts, depending on the inequities identified between it and its own male comparator job class.

This would mean that the differentials between job levels would no longer be uniform and even the actual "order" of the jobs could change, as the following example shows:

	Current annual salary	Pay Equity (PE) adjustment required	Annual salary after PE adjustments	Differential after PE adjustments
Job class I	\$14,000	\$2,000	\$16,000	0
Job class II	16,000	No comparison possible	16,000	
Job class III	18,000	1,000	19,000	3,000
Job class IV	20,000	2,500	22,500	3,500
Job class V	22,000	100	22,100	-400

Continued...

In this example, after pay equity adjustments are made there is no rationale for the salary differentials between the job classes in the group of jobs. In fact, job class IV is paid more than the higher level job class V. This problem can be avoided by using the group of jobs approach.

- Using the group of jobs approach may result in different pay equity adjustments for a particular job class than it would have received if each job class was considered individually.

Continuing with the example above, using the group of jobs approach results in a smaller pay equity adjustment for job classes I and IV, if job class III has the most employees and is the representative job class. Alternatively, a larger pay equity adjustment is provided to job classes II, III and V if job class I has the most employees.

If the pay differentials between jobs in a series are in percentage terms (rather than dollar amounts), the percentage differentials between the jobs in the series will be altered.

- Allocation of cost is another feature of the group of jobs approach.

The situation shown in the chart is inconsistent with internal equity — paying jobs of different value the same (job class I and job class II) or paying a lower valued job more than a higher valued job (job class IV and job class V). If an employer wishes to re-establish pay differentials between job classes I and II and job classes IV and V, such increases would not be pay equity adjustments and therefore could not be considered part of the one per cent of payroll required for pay equity adjustments. (See Sections 13(4) and (5).)

Alternatively, if an employer uses the group of jobs approach, all pay adjustments to each job class in the series will be pay equity adjustments that can be phased in under the one per cent of payroll per year.

Continued...

IMPLEMENTATION CHECKLIST

- a) For job classes represented by a bargaining agent, negotiate agreement on whether or not to use the group of jobs approach for any job series. For non-union pay equity plans, employers can determine this. The process, whether negotiated or not, could be as follows:
- b) Identify potential groups of jobs.
- c) Determine whether a group of jobs is 60 per cent female, or whether the parties agree that it is female dominated.
- d) To determine the most populous job class in a series — the representative job class — use the definition of employee, based on Sections 1(1), 8(3), 8(4). Only students working during their vacation period are excluded from the calculation.

Remember that the most populous job class — representative of the series — may not itself be female dominated. Use the representative job class in the pay equity process, regardless.

RELEVANT SECTIONS IN THE ACT

Sections 6(6) to (10) Groups of jobs

- (6) An employer may treat job classes that are arranged in a group of jobs as one female job class if 60 per cent or more of the employees in the group are female.
- (7) An employer shall treat job classes that are arranged in a group of jobs as one female job class if a review officer or the Commission decides that the group should be treated as one female job class.
- (8) An employer may, with the agreement of the bargaining agent, if any, for the employees of the employer, decide to treat job classes that are arranged in a group of jobs as one female job class.
- (9) Where a group of jobs is being treated as a female job class, the job rate of the individual job class within the group that has the greatest number of employees is the job rate for the group and the value of the work performed by that individual job class is the value of the work performed by the group.
- (10) In this section, “group of jobs” means a series of job classes that bear a relationship to each other because of the nature of the work required to perform the work of each job class in the series and that are organized in successive levels.

Continued...

REFERENCES

a) RELATED SECTIONS IN THE ACT

Section 1(1) job class

Section 6(2) Achievement of pay equity

Section 13(4) and (5) Minimum adjustments

Section 1(1), 8(3) and 8(4) Definition of employee

b) RELATED GUIDELINES

Implementation Series #5: Determining Job Class

Implementation Series #7: Determining Gender Predominance

Implementation Series #3: Calculating the Number of Employees in the
Private Sector

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THE PAY EQUITY COMMISSION

Determining
Gender
Predominance

May 1988

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PAY EQUITY IMPLEMENTATION SERIES #7

The implementation guidelines are intended to aid in the self-managed process — or, where bargaining agents are involved, the negotiated process — of achieving pay equity under the Pay Equity Act. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

All the jobs within an establishment can be classified as belonging to a female job class, a male job class, or a gender-neutral job class (a job class in which neither females nor males predominate).

The Act requires that female job classes be compared to male job classes (see Section 4(2) and Section 12) in the same establishment. If a female job class is found to be of equal or comparable value to a male job class, it must be paid the same job rate. (See Section 6(1).) Gender-neutral job classes are for all intents and purposes not affected by this legislation.

EXPLANATION

Female and male job classes need to be evaluated with a gender-neutral job comparison system so that a male job class may be identified as a “comparator” job class for each female job class.

Three criteria must be considered in determining gender predominance:

- ▶ Percentage cut-off
- ▶ Historical incumbency
- ▶ Gender stereotype of work

Continued...

Percentage criterion

If a job class has 60 per cent or more female employees, it is generally a female job class. If it has 70 per cent or more male employees, it is generally a male job class.

However, the percentage criterion alone may not be sufficient to determine gender predominance.

- ▶ In smaller job classes, gender predominance can change significantly if one or two employees enter or leave the workforce. For example, a five-person job class with four male employees is 80 per cent male. If one more female employee is hired, it becomes 66 per cent male. If only the quantitative approach were applied, gender predominance would be very unstable.
- ▶ If the quantitative criterion were the only one applied, pay equity might not be achieved, because the hiring or dismissal of female or male employees might change the gender predominance of a job class, which might then remain undervalued and underpaid.

Need for other criteria

When the proportion of women or men is somewhat less or somewhat more than the 60 and 70 per cent standards set out in the Act, or if it is a single-incumbent job class, one of the following conditions may exist:

- ▶ There has been a recent change in the gender predominance of a job class. In this case, historical incumbency would classify this job class according to its historical male or female pattern.
- ▶ A job class is currently staffed non-traditionally within a particular establishment — for example, two out of three of the establishment's engineers are female. In this case, the job is likely to be classed as male because engineers are stereotypically male.
- ▶ A single-employee job class may be filled by an employee whose gender is not stereotypical of that job. In this instance, the other two criteria — historical incumbency and gender stereotype of work — could be used to determine that the job class is not of the same gender as its current incumbent.

Historical incumbency and gender stereotype criteria

Historical incumbency refers to the gender of employees who have held a particular position within an establishment over time. Gender stereotype goes beyond the experience of any single employer. It involves noting the gender of those who have traditionally performed a particular kind of work in Ontario society or the existence of a belief that a particular gender performs a particular kind of work.

Continued...

The Act (Section 1(5)) allows a job class to be classified female dominated or male dominated not according to the gender of its current employees, but according to the gender of:

- ▶ past incumbents (historical incumbency); or
- ▶ those generally perceived to be doing the work (gender stereotype).

When considering these two criteria, time period and percentage figures must be taken into account.

Time period

Since establishments and occupations have existed for different periods of time, there cannot be a hard and fast rule about an appropriate time period for measuring historical incumbency and gender stereotypes.

Let's say six Shipping Clerk positions have been 100 per cent male dominated since 1984. But in the last six months, two of the men have been replaced by women. The class is now 66 per cent male. This job class could nonetheless be considered a male job class because of its historical incumbency. Or let us assume that the current incumbent in the Industrial Nurse job is male. Regardless of that, the gender stereotype for nursing work is clearly female.

A specific duration of time should be decided upon (by the parties) for each of the two criteria. A different time period for the two criteria, or even within each criterion, may have to be justified. For example, the time period used to assess gender stereotype might be shorter for a newer occupation than for an established one.

Percentage figures

When using historical incumbency and gender stereotypes, the 60 per cent requirement for female job classes and the 70 per cent requirement for male job classes are applied to the figures. For example, with historical incumbency, if over time the workers in a job class have been 60 per cent female but at present are only 50 per cent female, the job class would still be considered a female job class. If data is being used to demonstrate gender stereotype, these same percentages should be used.

The Reference section below lists sources of information on the gender predominance of various occupations, which could be used in assessing gender stereotypes.

Continued...

IMPLEMENTATION CHECKLIST

- a) For those job classes in a bargaining unit, the employer and the bargaining agent must negotiate gender predominance for the pay equity plan.
- b) For many jobs in many establishments, there will normally be no questions about gender predominance (for example, secretaries, nurses and carpenters). Refer to the flow chart below when the gender predominance of a job class is not readily apparent.
- c) Determine a "duration of time" to be used for historical incumbency and for gender stereotypes.
- d) Using percentage, historical incumbency and gender stereotype criteria, consider each job class as follows (F=female; M=male; N=gender neutral):

CONSIDERATIONS	YES	NO
A) Does job class currently have		
▶ 60% or more female incumbents	F	M or N
▶ 70% or more male incumbents	M	F or N
B) Has the gender composition of the incumbents traditionally been at least		
▶ 60% female	F	M or N
▶ 70% male	M	F or N
C) Is the gender stereotype of the work		
▶ female	F	M
▶ male	M	F

The outcome above will point to the gender tendency of the job class. Depending upon your negotiated or established decision rules, the various components in the chart may be weighted differently. This would affect the final determination of the gender predominance of a particular job class.

Note: For a single-incumbent job class or one with a small number of incumbents, fluctuations in gender predominance are inconclusive. This is because the percentage can change drastically when only a few members of one gender leave the job class and are replaced by employees of the other gender.

- e) List all job classes designated as female and all job classes designated as male.
- f) Keep all documentation as to your rationale for classifying job classes in case an objection arises.

Continued...

RELEVANT SECTIONS IN THE ACT

Section 1(1) **female job class**

"Female job class" means, except where there has been a decision that a job class is a male job class as described in clause (b) of the definition of "male job class",

- (a) a job class in which 60 per cent or more of the members are female,
- (b) a job class that a review officer or the Hearings Tribunal decides is a female job class or a job class that the employer, with the agreement of the bargaining agent, if any, for the employees of the employer, decides is a female job class.

Section 1(1) **male job class**

"Male job class" means, except where there has been a decision that a job class is a female job class as described in clause (b) of the definition of "female job class",

- (a) a job class in which 70 per cent or more of the members are male, or
- (b) a job class that a review officer or the Hearings Tribunal decides is a male job class or a job class that the employer, with the agreement of the bargaining agent, if any, for the employees of the employer, decides is a male job class.

Section 1(5) **Decisions re job classes**

In deciding or agreeing whether a job class is a female job class or a male job class, regard shall be had to the historical incumbency of the job class, gender stereotypes of fields of work and such other criteria as may be prescribed by the regulations.

Section 1(6) **One-member job classes**

A job class may consist of only one position if it is unique in the establishment because its duties, responsibilities, qualifications, recruiting procedures or compensation schedule, salary grade or range of salary rates are not similar to those of any other position in the establishment.

Continued...

REFERENCES

a) RELATED SECTIONS IN THE ACT

Section 1(1) job class

Section 4(1) Purpose

Section 4(2) Identification of systemic gender discrimination

Section 6 Achievement of pay equity

Section 12 Comparison of job classes

Section 13 Pay equity plans required

b) ARTICLES AND BOOKS

Reskin, B.F. and Hartmann H.I. Women's Work, Men's Work: Segregation on the Job. Washington, D.C.: National Academy Press, 1986.

Reskin, B.F. Sex Segregation in the Workplace: Trends, Explanations, Remedies. Washington, D.C.: National Academy Press, 1984.

c) DATA ON JOB SEGREGATION

Ontario Labour Force Characteristics by Occupation and Sex, Annual Averages

1981 Census of the Ontario Labour Force: Detailed Occupations by Sex

Canada (Statistics Canada), Federal annual averages, 1953-1986, major occupational groups

Ontario (Statistics Canada) Provincial, 1951, 1961, 1971, detailed occupational groups

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THE PAY EQUITY COMMISSION



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PAY EQUITY IMPLEMENTATION SERIES #8

The implementation guidelines are intended to aid in the self-managed process — or, where bargaining agents are involved, the negotiated process — of achieving pay equity under the Pay Equity Act. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

Employers and bargaining agents must negotiate agreement on the definition of establishment and on the male or female predominance of job classes. They must also agree on the gender-neutral method of comparison to be used for measuring the value of job classes and ultimately on the pay equity plan itself.

In order for an effective negotiating process to take place, certain kinds of information will have to be shared between the parties involved.

For non-union groups, employers may wish to involve employees in the development of their pay equity plans. If they do so, the employees involved will have to have sufficient information to participate effectively in the process.

Completed and posted pay equity plans will have to contain sufficient information and be written clearly so that employees can make informed judgements about them. In some cases it may be appropriate to translate a plan into other languages or arrange to have it interpreted and explained to those whose English skills are limited.

Continued...

EXPLANATION

Developing pay equity plans for bargaining units

The Pay Equity Act does not specify the kinds of information bargaining agents and employers are required to share with one another in the process of negotiating pay equity plans.

Section 14 states that the employer and bargaining agent must negotiate in good faith and endeavour to agree on a gender-neutral method of comparison and a pay equity plan for the bargaining unit involved. Cases involving the Ontario Labour Relations Act's "good faith bargaining" provision (Section 15) have determined that employers have to disclose various kinds of information to bargaining agents to facilitate the negotiating process.

As the parties work through the steps of the pay equity process, information-sharing requirements will become more apparent. At each stage of plan preparation, the specific data needed for the next step can be identified and disclosed. Thus, only the information required in and by the pay equity process will have to be disclosed.

In order to bargain in good faith and negotiate what is required under the Act, it would be reasonable to expect the employer to provide information such as the following to the bargaining agent:

- ▶ total number of employees in the province (for private sector organizations);
- ▶ information required to determine the appropriate definition of establishment;
- ▶ job classes involved (In most cases, bargaining agents will be aware of those within their bargaining unit. If and when comparisons with job classes outside the unit are required, sufficient information for informed comparisons will be needed);
- ▶ number of female and male incumbents in each job class, where needed to determine gender predominance;
- ▶ information about the historical incumbency of the job class, if needed in determining gender predominance;
- ▶ information about job rates (salaries, wages, payments and benefits) for the female and male job classes under comparison; and
- ▶ total annual payroll of the employer in Ontario.

Continued...

It would also be reasonable to expect the two parties to share information about the methods of gender-neutral job comparison they have proposed, including how the criteria of skill, effort, responsibility, and working conditions are defined and weighted. Both parties will require enough information to determine the gender neutrality of any proposed system and its suitability for the bargaining unit involved.

The Act does not define the involvement of the bargaining agents after the job comparison method has been negotiated. Section 13 states that pay equity plans must set out the results of the job comparisons made under the system used. Given that a pay equity plan must be agreed to by both employer and bargaining agent, the parties may choose to negotiate a process of joint comparison or some other option.

Developing pay equity plans for non-bargaining unit employees

For pay equity plans for non-bargaining unit employees, the employer can decide whether or not to expand the definition of establishment, can determine which job classes are male and female, and can select an appropriate method of job comparison. Employers may wish to keep employees informed or to directly involve them in the process of developing pay equity plans for the establishment by setting up pay equity committees, for example. However, this is not required under the Act.

Information for preparing the plan document

Certain information will have to be disclosed in the posted plan. Section 13 outlines the minimum content of a pay equity plan:

- ▶ definition of the establishment (the workplaces covered by the plan);
- ▶ a list of the female and male job classes to which the plan applies (gender-neutral job classes do not have to be listed);
- ▶ a description of the gender-neutral comparison system being used (See Implementation Series #9: Gender-Neutral Job Comparison.);
- ▶ the results of the job class comparisons in terms of value, appropriate to the job comparison system being used, and in terms of the differences in the job rates for all female job classes and their selected male comparators, if any;
- ▶ an explanation of which permissible differences in compensation allowed under Section 8 have been used, and why;
- ▶ the targeted schedule and plan for adjusting the compensation of female job classes; and
- ▶ the date of first adjustments (i.e. no later than the mandatory adjustment date set out in the Act).

Continued...

IMPLEMENTATION CHECKLIST

Bargaining units

- a) Employers and bargaining agents should determine what information is needed for them to carry out negotiations as required by Section 14 of the Act. Requirements may vary, depending on what information is currently available to both parties, and whether or not issues such as the definition of establishment are being negotiated. The information can be shared on a staged basis, as the parties work through the steps of the pay equity process.
- b) Employers and bargaining agents must both be involved in developing or determining the gender-neutral job comparison system to be used; they also negotiate whether there is to be joint involvement in the actual evaluation and comparison of job classes. In any event, the bargaining agent will be aware of the results of the evaluation process, as these must be approved by the bargaining agent and posted in the plan.
- c) If the parties reach agreement, pay equity plan documents are prepared and posted prominently in the appropriate workplaces. If they are unable to reach agreement on the pay equity plan, either party may contact the Pay Equity Commission at the time an impasse is reached. A review officer will attempt to settle the matter, or, if necessary, make an order.

Non-bargaining unit employees

- d) For non-bargaining unit employees, employers prepare pay equity plans as required and post them in the establishment. They may choose to involve employees in this process. In any case, employees have the opportunity to review the plans and make comments to the employer or file an objection with the Commission. (See Sections 15(4) — (7) and 16).

RELEVANT SECTIONS IN THE ACT

Section 13 Pay equity plans required

- (1) Documents, to be known as pay equity plans, shall be prepared in accordance with this Part to provide for pay equity for the female job classes in each establishment of every employer to whom this Part applies and, without restricting the generality of the foregoing,
 - (a) shall identify the establishment to which the plan applies; and
 - (b) shall identify all job classes which formed the basis of the comparisons under Section 12 (see Section 12 below).

Continued...

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- (2) If both female job classes and male job classes exist in an establishment, every pay equity plan for the establishment,
- (a) shall describe the gender-neutral comparison system used for the purposes of Section 12;
 - (b) shall set out the results of the comparisons carried out under Section 12;
 - (c) shall identify all positions and job classes in which differences in compensation are permitted by subsection 8(1) or (3) and give reasons for relying on such subsection;
 - (d) shall, with respect to all female job classes for which pay equity does not exist according to the comparisons under Section 12, describe how the compensation in those job classes will be adjusted to achieve pay equity; and
 - (e) shall set out the date on which the first adjustments in compensation will be made under the plan, which date shall not be later than [dates listed in the Act].
- (8) In this section, “payroll” means the total of all wages and salaries payable to the employees in Ontario of the employer.

Section 12 Comparison of job classes

Before the mandatory posting date, every employer to whom this Act applies shall, using a gender-neutral comparison system, compare the female job classes in each establishment of the employer with the male job classes in each establishment to determine whether pay equity exists for each female job class.

Section 14(1)–(6) Establishments with bargaining units

- (1) In an establishment in which any of the employees are represented by a bargaining agent, there shall be a pay equity plan for each bargaining unit and a pay equity plan for that part of the establishment that is not in any bargaining unit.
- (2) The employer and the bargaining agent for a bargaining unit shall negotiate in good faith and endeavour to agree, before the mandatory posting date, on,
- (a) the gender-neutral comparison system used for the purposes of Section 12; and
 - (b) a pay equity plan for the bargaining unit.

Continued...

-
- (3) As part of the negotiations required by subsection (2), the employer and the bargaining agent may agree, for the purposes of the pay equity plan,
- (a) that the establishment of the employer includes two or more geographic divisions; and
 - (b) that a job class is a male job class or a female job class.
- (4) When an employer and a bargaining agent agree on a pay equity plan, they shall execute the agreement and, on or before the mandatory posting date, the employer shall post a copy of the plan in the workplace.
- (5) When a pay equity plan has been executed by an employer and a bargaining agent, the plan shall be deemed approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.
- (6) Where an employer and a bargaining agent fail to agree on a pay equity plan by the mandatory posting date, the employer, forthwith after that date, shall give notice of the failure to the Commission.

REFERENCES

Implementation Series #7: Determining Gender Predominance

Implementation Series #9: Gender-Neutral Job Comparison

Section 15(4)–(7) **Employee review**

Section 16 **Investigation by review officer and settlement**

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THE PAY EQUITY COMMISSION



July 1988

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PAY EQUITY IMPLEMENTATION SERIES #9

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Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

The Pay Equity Act requires employers (in agreement with bargaining agents, when unionized employees are involved) to compare the value of female-dominated and male-dominated job classes in their establishments, using a gender-neutral job comparison system. (See Sections 4 and 12.)

This requirement applies to all public sector employers and to private sector employers with 100 or more employees. Private sector employers with between 10 and 99 employees may follow the same procedures as the larger employers. (See Section 19.)

(Small employers may choose not to prepare formal pay equity plans, but they must still achieve pay equity by the mandatory date applicable to them, using systematic compensation practices and maintaining adequate records so they can properly respond to any complaints.)

The Act does not specify, and the Pay Equity Commission does not endorse, any particular method or system of job evaluation or comparison. However, the Act does require that any system being used for pay equity purposes value the content of jobs — using a composite of the four factors of skill, effort, responsibility and working conditions — and be free of gender bias. (See Sections 5 and 12.)

Continued...

Since female and male job classes often involve different kinds of work, it is important to evaluate them against a common set of criteria and in a consistent and systematic manner.

However, a systematic method may still be gender-biased, and even a method that is in itself free of bias may be applied in a biased way — that is, in a way that favours one gender or the other.

Such bias is often completely unconscious and a product of traditional attitudes, beliefs and assumptions. The goal of the pay equity process is to remedy the effects of this type of bias on the compensation of Ontario employees.

EXPLANATION

The term “job comparison system” means any system designed to determine the relative worth of jobs within an organization. The terms “evaluate” and “evaluation”, as used in the guideline, do not necessarily refer to the use of a formal evaluation system, but rather to any method used to determine and compare the value of jobs as required by the Act.

Each step in the design and application of a job comparison system should be free of gender bias. Gender bias can enter into the process at a number of different points:

- ▶ in the information about or descriptions of job classes;
- ▶ in the selection and definition of the specific factors by which the job classes will be evaluated for compensation purposes (compensable factors);
- ▶ in the weighting of factors;
- ▶ in the actual process of evaluating jobs.

Continued...

Job information or descriptions

Before jobs can be evaluated, information about their content must be documented. If this information is inaccurate or incomplete, the relative value of different jobs cannot be fairly determined.

Information about the content of jobs can be gathered through observation, interviews, questionnaires, review of existing job descriptions or the development of new ones. (The Act does not explicitly require job descriptions.)

Whatever approach is used, care should be taken to ensure that the content of the jobs is not described in terms of stereotyped ideas about the employees doing the jobs. (It is the jobs, not the gender or characteristics of the incumbents, that must be compared.)

Certain aspects of the job content of female job classes are often overlooked. For example, the need for skill in dealing with people may be recognized in the description of an executive job (usually a male job class), but ignored in the description of a secretarial job (usually a female job class).

There are often language differences in the way jobs are described; studies have shown that men tend to overdescribe and women tend to underdescribe their jobs. For example, a male job class might be defined as involving “managing”, while a similar function for a female job class might be described as “supervising”.

As many “women’s jobs” involve activities that are extensions of traditional female functions — caring for and nurturing children, nursing, and serving others, for example — these skills may be overlooked as “intrinsic to women”. On the other hand, qualities such as physical strength, which may generally be considered as “intrinsic to men”, are seldom overlooked in the evaluation of “men’s jobs”.

As these examples show, care must be taken to ensure that job information and descriptions are based on objective measurement of the content of each job and are prepared with a conscious awareness of the built-in tendency to minimize the content of “women’s jobs”.

Continued...

Selection and definition of comparable factors

The Pay Equity Act requires that any comparison method used in the pay equity process measure a composite of the four factors of skill, effort, responsibility and working conditions. These are often divided into subfactors — for example, responsibility for machines and responsibility for people might be subfactors of responsibility. Different subfactors may be chosen, according to what characteristics are valued in a particular organization.

The same stereotyped notions that can affect the descriptions of “women’s jobs” can also affect the definitions of job factors. For example:

- ▶ The manual skills of a machinery repair person may be considered but the dexterity skills of a typist may be overlooked.
- ▶ The physical effort required for the occasional lifting of heavy objects may be taken into account, while the more frequent lifting of lighter objects may not.
- ▶ Responsibility for spending authority and budgetary control may be considered, but responsibility for handling customer complaints may not.
- ▶ Caring for mentally ill persons may be overlooked as a stressful working condition, while working with noisy machinery may not.

To avoid these kinds of inequities, care should be taken to ensure that factors tending to favour female job classes are included as well as those that tend to favour male job classes. When possible, factors should be defined in neutral terms that apply to both “men’s jobs” and “women’s jobs”, and in broad enough terms to include the full range of tasks and duties found in all job classes within the establishment.

Weighting of factors

Some comparison systems allow for factors and subfactors to be weighted to reflect their relative importance to the organization. Weighting involves making judgments about how the organization values different aspects of job content; this is perfectly acceptable, provided that the weightings themselves are free of gender bias.

The factors with the heaviest and the lightest weightings should be especially carefully examined to ensure that these weights do not favour one sex over the other. For example, if a very high rating is given to technical skills, which are most often found in male job classes, and a very low rating is given to dexterity skills, which are most often found in female job classes, this will have an effect on the gender neutrality of the evaluation system.

Continued...

If male job classes consistently score higher on the factors with the heaviest weightings, and female job classes consistently score higher on the factors with the lightest weightings, this is a good indication that a degree of gender bias has been built into the system. Factors that are found almost exclusively in jobs that are predominantly performed by either female or male employees should not be given either extremely high or extremely low weightings.

Employers should be aware that some systems have pre-established weightings, while others allow weightings to be adjusted by users of the system. The latter can be more easily corrected if the system is gender biased.

The evaluation process

The Pay Equity Act does not specifically require that job evaluation committees be used in the pay equity process, but there are significant advantages to the committee approach. A committee will be able to draw on a wider knowledge of the various jobs in the establishment than a single evaluator, and the results of a committee process are more likely to be acceptable to the employees.

Both the selection of members of the job evaluation committee and the committee's own process must naturally be free of gender bias.

An effective committee would probably include employees of both sexes, of varying ages and years of experience, of a number of occupations and of different organizational levels. Where bargaining units are involved, both union and management representation would be appropriate. Committee members should be well respected within their establishments.

Committee members should understand pay equity issues and should be aware of how socialization (i.e. sex stereotyping) can influence analysis and decision-making. They should be given adequate training in bias-free evaluation, and should reach agreement on what the chosen criteria mean and how they are to be applied, before the evaluation process begins.

Care should be taken to ensure that female and male job classes are evaluated as objectively as possible. It may be advisable to rate all jobs on one factor at a time, rather than rating whole jobs one after the other. This way, the evaluation of a given factor will not be influenced by the raters' perceptions of the whole job. A consensual approach to decision-making may be more effective than a vote in situations where the committee has rated factors and/or jobs differently.

Continued...

Pay equity plans

A description of the gender-neutral job comparison system must be included as part of each pay equity plan. (See Section 13.) It is important to remember that the plan should be easily understood by the employees whose jobs it covers.

The description of the comparison process would usually include the following:

- ▶ a general description of the method used;
- ▶ definitions for the four factors of skill, effort, responsibility and working conditions, plus the definitions of any sub-factors; and
- ▶ factor weightings, if applicable.

IMPLEMENTATION CHECKLIST

- a) Select or design a job comparison system that is gender neutral in its construction, and that measures a composite of the four factors of skill, effort, responsibility and working conditions. (When bargaining units are involved, employers and bargaining agents must negotiate in good faith.)
- b) Describe the tasks and duties of job classes accurately and completely, in a manner that is free of gender bias.
- c) Apply the chosen job comparison system in a way that is free of gender bias. If a committee is used, its members should represent a variety of functional areas of the organization. Members should be knowledgeable about the jobs to be evaluated, about the system being used, and about the goals of the pay equity process. A training program for the committee is recommended.
- d) Include a description of the comparison system and its application in the pay equity plan.

Continued...

RELEVANT SECTIONS IN THE ACT

Section 4 Purpose

- (1) The purpose of this Act is to redress systemic gender discrimination in compensation for work performed by employees in female job classes.
- (2) Systemic gender discrimination in compensation shall be identified by undertaking comparisons between each female job class in an establishment and the male job classes in the establishment in terms of compensation and in terms of the value of the work performed.

Section 5 Value determination

- (a) For the purpose of this Act, the criterion to be applied in determining value of work shall be a composite of the skill, effort and responsibility normally required in the performance of the work and the conditions under which it is normally performed.

Section 12 Comparision of job classes

- (1) Before the mandatory posting date, every employer to whom Part II (Implementation: Public Sector and Large Private Sector Employers) applies shall, using a gender-neutral comparison system, compare the female job classes in each establishment of the employer with the male job classes in the same establishment to determine whether pay equity exists for each female job class.

Section 13 Pay equity plans required

- (1) Documents, to be known as pay equity plans, shall be prepared in accordance with Part II to provide for pay equity for the female job classes in each establishment of every employer to whom this Part applies...
- (2) If both female job classes and male job classes exist in an establishment, every pay equity plan for the establishment,
 - (a) shall describe the gender-neutral comparison system used for the purposes of section 12;
 - (b) shall set out the results of the comparisons carried out under section 12.

Continued...

REFERENCES

The Canadian Classified Dictionary of Occupations can be found in most reference and university libraries.

L. Kaufman. *Job Evaluation Systems: Concepts and Issues*. Kingston: Queen's University Industrial Relations Centre Research and Current Issue Series, No. 45, 1986.

Government of Manitoba, *Pay Equity and Job Evaluation*. Winnipeg: Ministry of Labour, 1986. Available from: Pay Equity Bureau, 609-386 Broadway Avenue, Winnipeg, Manitoba R3C 3R6.

Any compensation textbook.

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Which
Job Classes
to Compare

July 1988

THE PAY EQUITY COMMISSION



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PAY EQUITY IMPLEMENTATION SERIES #10

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Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

Pay equity is achieved when a female-dominated job class is compensated the same as a male-dominated job class of equal or comparable value. When there is no class of equal or comparable value to the female job class, the male job class used for comparison purposes is the highest paid of lower-valued but higher-paid male classes. This is the “comparator class”.

This guideline outlines the sequence for identifying the appropriate male job class to be a comparator for a particular female job class.

“Equal or comparable” means that compared job classes need not be identical in value. If, for instance, a point range is used, it is important that the ranges be consistently applied in determining comparable job classes.

Continued...

EXPLANATION

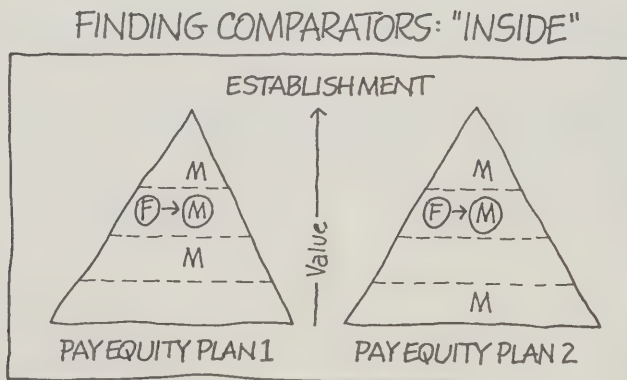
Three steps must be completed before the process of identifying male comparator job classes begins:

- ▶ Determining what pay equity plans are needed and what jobs are covered by each of them (see Implementation Series #4: Establishment);
- ▶ Determining which job classes are female dominated and which are male dominated (see Implementation Series #7: Determining Gender Predominance); and
- ▶ Evaluating all female job classes and their possible male comparator classes, using a gender-neutral job comparison system (see Implementation Series #9: Gender-Neutral Job Comparison).

The Pay Equity Act stipulates a specific sequence for identifying the appropriate male comparator job class for any particular female job class. A male job class can serve as the comparator for more than one female job class. The following steps are undertaken, in this order, in all establishments where there are potential male comparator job classes:

1. Look for a male job class of equal or comparable value, covered by the same pay equity plan. This is the "inside" comparison. If more than one is found, the one with the lowest job rate is the appropriate comparator.

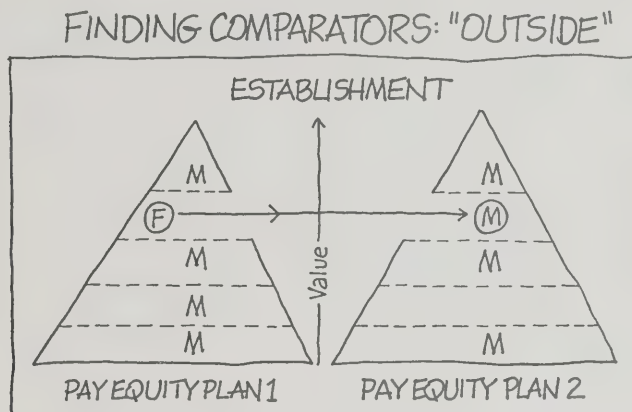
In this and the following illustrations, F = female job class and M = male job class.



Continued...

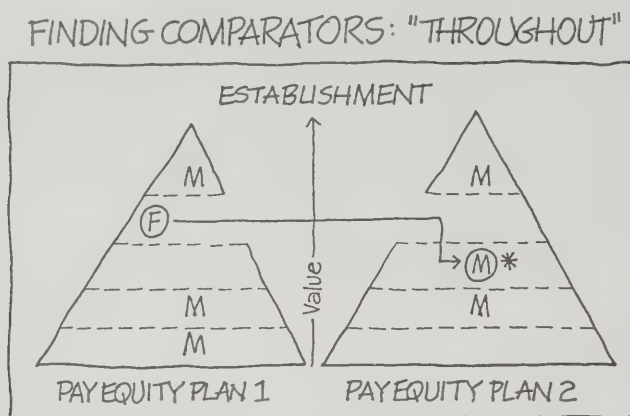
2. If there is no male job class of equal or comparable value covered by the same pay equity plan, look for one from among other male job classes in the establishment. This is the "outside" comparison. If more than one is found, the one with the lowest job rate is the appropriate comparator.

When there is no "inside" comparator, boundaries between one bargaining unit and another, or between a bargaining unit and the non-union group of employees, must be crossed to find a male comparator job class anywhere in the establishment.



Continued...

3. If there is no male job class of equal or comparable value in the establishment, look at male job classes that are of lower value but higher paid than the female class under consideration. This is the "throughout" comparison. If more than one is found, the one with the highest job rate is the appropriate comparator.



* Assuming this is the highest paid of male job classes of lesser value than the female job class under consideration

Pay equity is achieved when the job rate for the female job class is at least as great as the lowest job rate for the first two categories of comparators or the highest job rate for the third category. (See Section 6(3).)

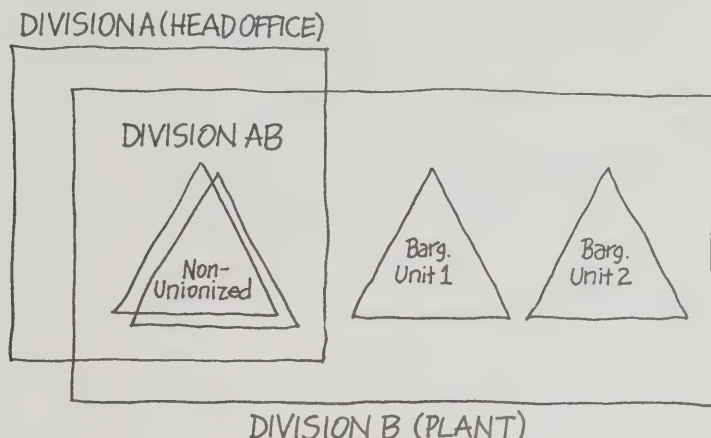
When there is no appropriate male comparator class anywhere in the establishment, the female job class under consideration does not have access to pay equity under the Act.

Continued...

Possible comparators in partly combined establishment

For pay equity purposes, two or more geographic divisions of an employer's operations may be combined into one establishment for some employee groups but not for others.

For example, all non-unionized employees in both head office (Division A) and plant (Division B) could be under one pay equity plan (Division AB), while each bargaining unit in the plant would have its own plan.



In such a situation, female job classes in head office (as well as non-unionized female classes in the plant) may find male comparators anywhere in the plant or in head office.

On the other hand, female job classes in bargaining units in the plant can look for comparators only from within their own bargaining unit, the other bargaining unit, or the non-unionized job classes in the plant — that is, anywhere in Division B. They do not have access to potential male comparator classes in head office (Division A).

Continued...

IMPLEMENTATION CHECKLIST

a) Match each female-dominated job class with a male comparator class:

- ▶ For each female job class, look for a male job class of equal or comparable value and covered by the same pay equity plan ("inside" comparison). If there is more than one, the one with the lowest job rate is the appropriate comparator.
- ▶ If no male job class of equal or comparable value can be found under the same plan, look for one from among all the male-dominated job classes in the establishment ("outside" comparison). Again, if there is more than one, the one with the lowest job rate is the appropriate comparator.
- ▶ If no male job class of equal or comparable value can be found in the establishment, seek a male job class that has lower value but is higher paid, from among all the male job classes within the establishment ("throughout" comparison). If there is more than one possible comparison, the male job class with the highest job rate must be used as the comparator.

b) List each female job class, noting whether it has:

- ▶ a male comparator job class of equal or comparable value; or
- ▶ a male comparator job class of lower value, but higher paid; or
- ▶ no male comparator job class identified in the establishment.

Continued...

RELEVANT SECTIONS IN THE ACT

Section 6 (3), (4) and (5) Basis of comparison

- (3) If more than one comparison is possible between a female job class in an establishment and male job classes in the same establishment, pay equity is achieved when the job rate for the female job class is at least as great as the job rate for the male job class,
- (a) with the lowest job rate, if the work performed in both job classes is of equal or comparable value; or
 - (b) with the highest job rate, if the work performed in the male job class is of less value.
- (4) Comparisons required by this Act,
- (a) for job classes inside a bargaining unit, shall be made between job classes in the bargaining unit; and
 - (b) for job classes outside any bargaining unit, shall be made between job classes that are outside any bargaining unit.
- (5) If, after applying subsection (4), no male job class is found in which the work performed is of equal or comparable value to that of the female job class that is the subject of the comparison, the female job class shall be compared to male job classes throughout the establishment.

REFERENCES

Implementation Series #4: Definition of Establishment

Implementation Series #7: Determining Gender Predominance

Implementation Series #9: Gender-Neutral Job Comparison

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THE PAY EQUITY COMMISSION

Determining
Job Rate –
Salaries/Wages/
Payments

August 1988

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PAY EQUITY IMPLEMENTATION SERIES #11

The implementation guidelines are intended to aid in the self-managed process — or, where bargaining agents are involved, the negotiated process — of achieving pay equity under the Pay Equity Act. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

The Pay Equity Act requires that the job rate for a female job class be the same as the job rate for its male comparator job class.

“Job rate” is defined as the highest rate of compensation, and compensation includes salaries, wages, payments and benefits. In this guideline, the salaries, wages and other cash payments or income components are discussed. Implementation Series #12: Determining Job Rate — Benefits discusses benefits or payments related to benefits.

Therefore comparisons of both the wages/salary/payments component and the benefits component of compensation should, technically, be carried out.

Some forms of work income, such as commissions, tips, gratuities and bonuses, can further complicate the determination of job rates in some kinds of establishments.

The job rate for a job class is independent of the incumbent. It may exist even if there is no incumbent.

The Act permits differences in compensation resulting from the use of gender-neutral formal seniority or merit systems, and from gender-neutral red-circling, temporary skills shortages, and temporary training or development assignments (See Section 8(1)). These permissible differences are explained in Implementation Series #13: Permissible Differences.

Continued...

EXPLANATION

Determining job rates may be a more complicated process in some establishments as payments for performed work associated with different job classes may be structured differently. For example:

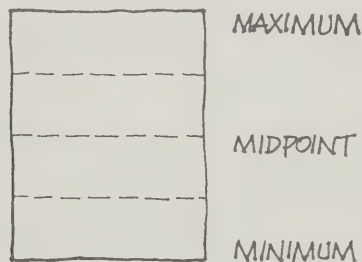
1. Many organizations have established salary ranges for each job class, with definite minimums and maximums, and employees progress from one level to another.
2. In some establishments, certain job classes may each have a single job rate, with no steps or progression schedule.
3. In some situations there are no formal salary ranges or organized methods for determining salaries. This may hold true for either single- or multiple-incumbent job classes.

Note: In the more detailed illustrations that follow, benefits are ignored for the sake of simplicity. In reality, benefits are part of the job rate and must be considered when comparing compensation levels.

1. Fixed salary ranges with minimums and maximums

Many employers have implemented and maintained a definite salary range for each job class. A salary range has a minimum and a maximum and often a midpoint.

Salary range with
minimum, midpoint and maximum



Some employers have established a system using salary ranges, but over time the minimums and maximums have been disregarded, exceptions have been made for any of a number of reasons, and the formal ranges now bear little relation to reality. In such cases, it is important to determine the actual current salary ranges before going further with the development of pay equity plans.

Continued...

Ranges for different job classes in the same establishment may differ in length or number of steps, but these differences do not affect the definition of the job rate for pay equity purposes, because job rate is the highest rate of compensation for a job class. Pay equity comparisons do not entail comparing minimums of salary ranges. However, the integrity of various steps in the salary ranges must be maintained once the appropriate adjustment is made to the job rate.

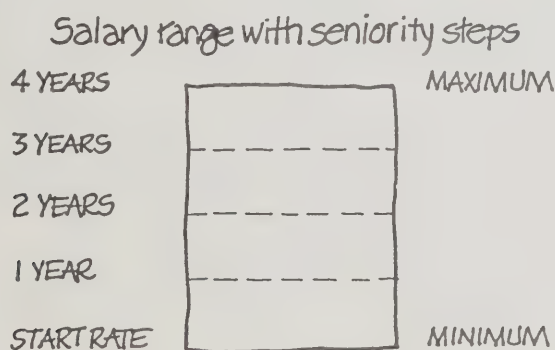
An employee may progress through the salary range on the basis of merit or seniority/service, or a combination of the two.

Some employers and bargaining agents distinguish between the terms “seniority” and “service”. “Service” is sometimes used to define an employee’s progression on a pay grid, while “seniority” may be used to define an employee’s ranking in the case of layoffs, for example. In this guideline, as in the Pay Equity Act, (Section 8(1)(a)), “seniority” is meant to include both of these concepts.

Formal seniority and merit systems may justify permissible differences in compensation under the Pay Equity Act (see Section 8(a) and (c)), and Implementation Series #13.

Seniority systems

Under a pure seniority (or step-progression system) system, employees progress from one step or level of the salary range to another at defined intervals until they reach the maximum, which is the job rate.



It is important to remember that the job rate for a job class is independent of the incumbent. The maximum, or job rate, must be equally attainable by employees in a female job class and by those in the male comparator job class.

Any seniority system used must be demonstrably gender neutral.

Continued...

Merit systems

In this guideline, "merit system" will refer to a formal system, such as Case I below, where only those whose performance is judged exceptional will reach the maximum of their salary range, and the employees are aware of this policy.

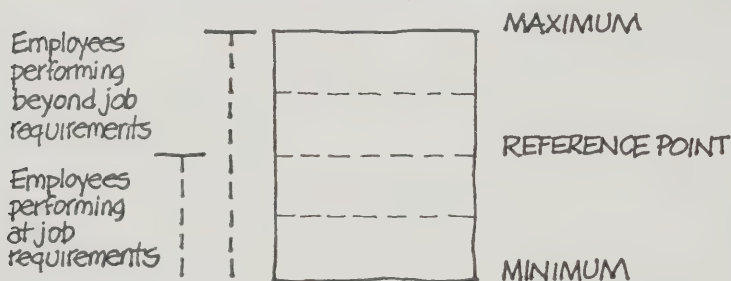
Under a merit system, an employee's progression through the salary range is based on formal performance ratings and the employees are aware that performance affects their progression in the salary range. Any merit system used must also be demonstrably gender neutral (Section 8(1) (c)).

Systems that are commonly referred to as merit systems are not all the same. Under some, only those judged to be performing above the requirements of the job will progress to the maximum salary in the range. Employees whose performance is judged to be at the level that the job requires will normally progress only to the reference point — often the midpoint — which will in fact be their maximum. In this kind of system, merit really is the factor that determines how high the employee rises in the salary range.

The midpoint and the reference point are two different things, which sometimes coincide and sometimes do not. In some salary ranges, the reference point might be two-thirds of the way up the scale, for example. The reference point is the point that employees performing at the levels their jobs require may be expected to reach.

CASE I

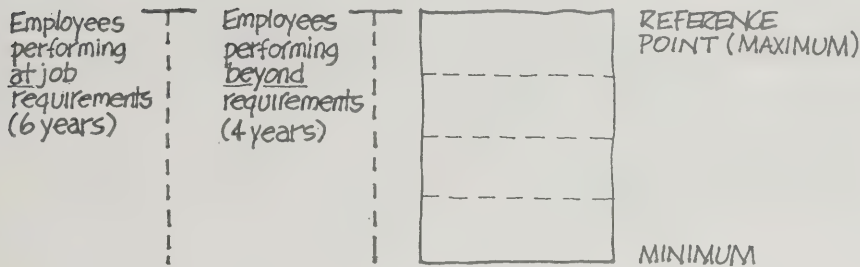
Merit system range with
reference point as the job rate



Continued...

Under some merit systems, virtually all employees will progress to the maximum, but those performing beyond requirements will move faster. This kind of system is not a true merit system, but is more like a modified seniority system. The reference point in this kind of system is in fact the maximum of the salary range.

CASE II
Merit system range
with varying speed of progression



These two approaches to "merit" systems will have different implications for the determination of the salary portion of the job rate.

With the Case I approach, where employees are expected to reach only the midpoint, or reference point, that point would be the job rate for pay equity purposes. The portion of the salary range above that, given only to those deemed to be superior performers, normally would be true merit pay and exempt from consideration for pay equity purposes.

However, in Case II, where all employees can expect to reach the maximum in their salary range, the maximum of the range would be the job rate, as in a seniority system.

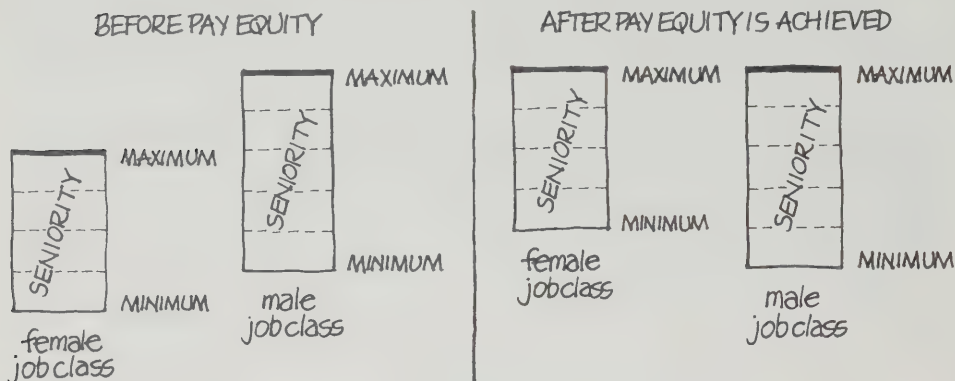
Other merit systems exist, some of which fall somewhere between the two cases explained above.

Continued...

Salary arrangements and job rate

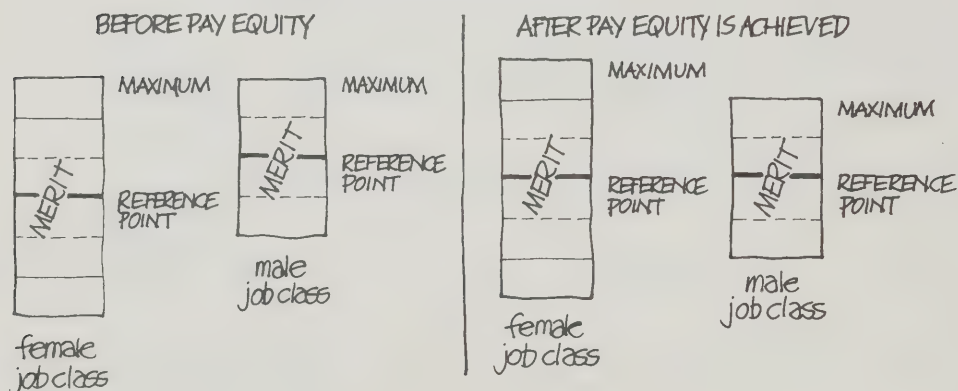
Within any establishment, there may be differences in the way salary ranges are used for different job classes. The scenarios outlined below indicate how the job rate may be determined and pay equity achieved in several different situations.

Achieving pay equity in a seniority system



If both the female job class and male comparator job class use a seniority system, the job rate is the maximum rate for each job class. Pay equity is achieved when the maximum salary of the female job class is equal to the maximum salary of the male comparator. However, the minimum salaries and the number of steps in the scales may be the same or different between the job classes.

Achieving pay equity in a merit system



If both the female job class and male comparator use a merit system, the job rate is the reference point — that point in the salary range beyond which only employees whose performance exceeds the requirements of the job are paid.

Continued...

Summary

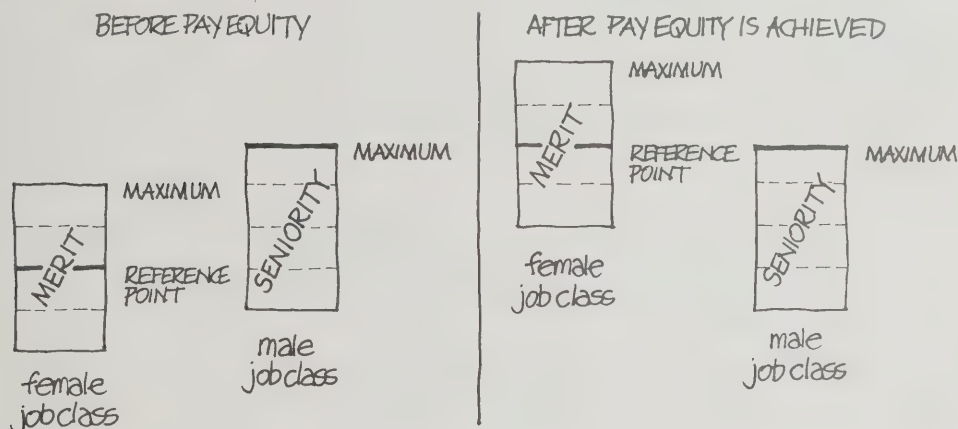
Under a seniority system, the maximum salary of the range is the job rate for pay equity purposes.

Under a merit system, the reference point of the salary range is the job rate for pay equity purposes.

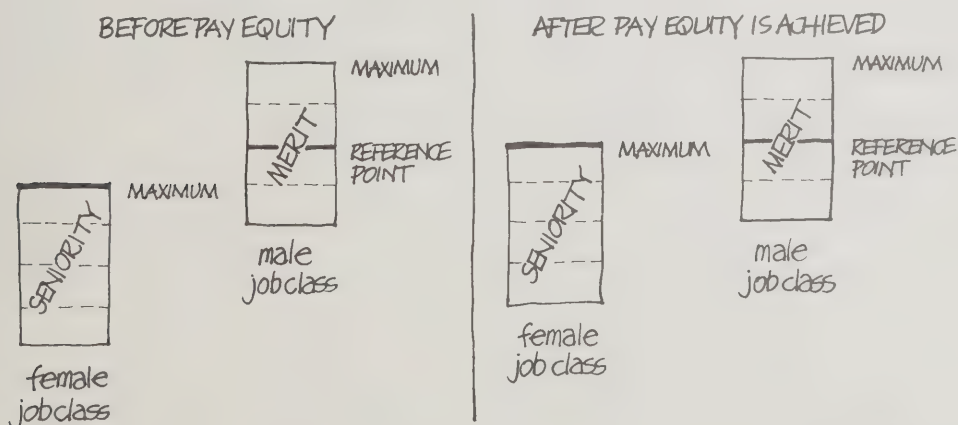
Equating job rates between merit and seniority systems

In establishments that use both seniority and merit systems for different job classes these two principles would still hold true.

For example, if the female job class uses a true merit system while the male comparator uses a seniority system, pay equity is achieved when the reference point of the range of the female job class is equal to the maximum of the male comparator's range.



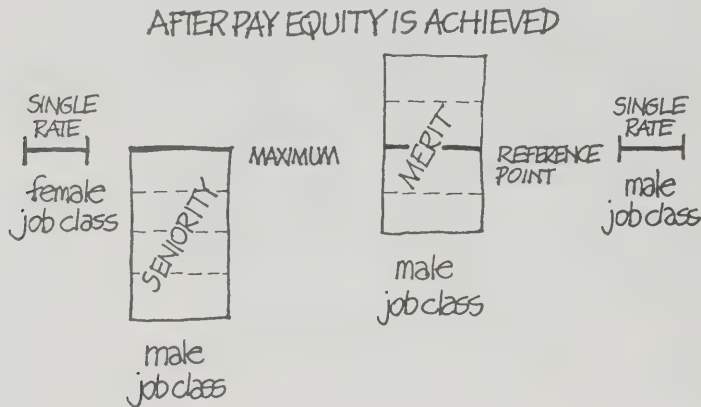
If the female job class uses a seniority system and the male comparator uses a merit system, pay equity is achieved when the maximum salary of the female job class is equal to the reference point salary of the male comparator's range.



Continued...

2. Single-rate job classes

For job classes with a single rate, that rate is of course the job rate and should be treated as such when the comparator job class has a salary range using either a seniority or a merit system.



3. No formal salary range

Some employers do not establish or maintain salary ranges for specific job classes. Instead, they make salary decisions every time a new employee is hired or when an employee asks for an increase. In this kind of situation, for pay equity purposes a job rate must still be identified for each job class. The maximum rate paid any incumbent of a job class (excluding the effects of a merit portion or seniority, where applicable) would be considered as the job rate.

The determination of job rates where established salary ranges do not exist will have to be done so it is justifiable on the basis of job content, and employers will have to be prepared to show that the determination of job rate is a gender-neutral process.

Continued...

Commissions, bonuses, incentive pay, tips, etc.

These types of payments are earned by employees but are not salary or wages per se. Some employees — for example, those on straight commission — receive commission payments instead of salaries or wages from the employer. Others — for example those receiving tips or gratuities — also receive a portion of their compensation in salaries or wages.

When these payments are tied to merit or performance of the employees as identifiable under Section 8, they are not included in the calculation of compensation, see Implementation Series #13: Permissible Differences.

Because of the great variety of payments that could be included in the category and the many ways they are used, it is impossible to develop a guideline to cover every possible situation. However, the following general principle can be used when addressing pay equity issues: When determining the portion of those payments that should be included in the calculation of job rate, use the amount of such payments that can be defined as part of the base salary and exclude the amount that can be defined as merit pay. When costing such payments, use standard costing procedures to put them into an hourly rate.

IMPLEMENTATION CHECKLIST

- a) Identify current salary/wages arrangements for each female job class and its possible male comparator job classes.
- b) Determine the appropriate job rate for each female job class and its male comparator, using the foregoing Explanation section as a guide.
- c) Before deciding what pay equity adjustments are needed, determine whether benefits for each female job class and its possible male comparator are equal and follow the procedure outlined in Implementation Series #12: Determining Job Rate — Benefits.

Continued...

RELEVANT SECTIONS IN THE ACT

Section 1(1) "Job rate" and "Compensation"

"job rate" means the highest rate of compensation for a job class.

"compensation" means all payments and benefits paid or provided to or for the benefit of a person who performs functions that entitle the person to be paid a fixed or ascertainable amount.

Section 6 Achievement of pay equity

- (1) For the purposes of this Act pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate for a male job class in the same establishment where the work performed in the two job classes is of equal or comparable value.
- (2) Where there is no male job class with which to make a comparison for the purposes of subsection (1), pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate of a male job class in the same establishment that at the time of comparison had a higher job rate but performs work of lower value than the female job class.

REFERENCES

Implementation Guideline #12: Determining Job Rate — Benefits

Section 8(1)(a) and (c) Exclusions from determination

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THE PAY EQUITY COMMISSION

Determining
Job Rate —
Benefits

August 1988

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PAY EQUITY IMPLEMENTATION SERIES #12

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Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

Under the Pay Equity Act, a female job class and a male job class that have been found to be of equal or comparable value must be paid equally (see Section 6(1)). That is, the two classes must have the same job rate.

Job rate is defined as “the highest rate of compensation for a job class”, and compensation includes salary, wages, payments and benefits (See Section 1(1)). Therefore comparison of both the wages/salaries/payments component and the benefits component should technically be carried out.

The first three components of job rate are discussed in Implementation Series #11: Determining Job Rate — Salaries/Wages/Payments.

This guideline focuses on the benefits component of the job rate. It should be read in conjunction with Implementation Series #11: Determining Job Rate — Salaries.

Continued...

EXPLANATION

Definition of benefits

While the legislation does not define benefits per se, the term is included in the definition of compensation (Section 1(1)). That definition qualifies a “benefit” as something “paid or provided to or for the benefit of a person who performs functions that entitle the person to be paid a fixed or ascertainable amount.” Thus, only benefits whose cost can be practically determined are considered for pay equity purposes.

Benefits eligibility for Pay Equity Act compliance

A benefit is a component of job rate if it contributes to the improvement of a job class’s total compensation or provides an advantage to a job class over others that do not have the same benefit.

It is the availability of benefits, not their use by individuals, that must be considered.

For pay equity purposes, employers and, where applicable, bargaining agents, should review and take into consideration the potential impact of two different kinds of benefits:

- ▶ benefits provided or made available to employees based on their unit — for example, unionized/non-unionized; union A/union B.
- ▶ benefits tied to organizational levels and/or job titles/categories — for example, certain benefits given only to managers and above, additional benefits given only to vice-presidents and above.

Benefit costing

In practice, if benefits are identical, it is unlikely that costing will be necessary.

Sometimes it will be necessary to compare the compensation of one job class to that of another with different benefits and/or benefits of different levels. Therefore, some means of costing benefits must be used to determine their value.

There are three possible scenarios:

1. One class has the benefit(s) and the other does not.
2. Both classes have the benefit(s), but with different levels of payment or advantage.
3. The difference in benefits is linked to the difference in salary.

It is possible that in some cases the female job class could have more or better benefits than its male comparator class. In such cases, depending on the nature of the additional benefits, the current compensation gap between classes might be less than the current wage gap would indicate.

Continued...

Scenario 1: One job class has the benefit and the other class does not.

For example, one job class has insurance to cover the cost of eye glasses, and the other does not.

There are several ways to value a benefit. The most appropriate way for pay equity purposes will depend on the type of benefit and on what agreement can be reached by the parties involved.

Different methods may be used. Determination of the benefit's value may be based, for example, on the average value of advantage provided to the entire pay equity plan unit, or portion thereof, that currently has the benefit.

It is this value, on a per hour basis, that needs to be considered when comparing compensation.

One of the most practical ways to calculate the average value is to equate it to the employer's average cost of providing the benefit (usually as reflected by the premiums paid to a benefit carrier). Special thought should be given to the calculation of premium costs which may fluctuate from year to year over the term of the pay equity plan owing to changes in the composition of the employee group involved or simply in the rate schedule of the carrier.

In some cases it may be appropriate, subject to any necessary agreement of the parties, to simply grant the additional benefit to the class that does not have it. If this is done, the need for calculating value is minimized, if not eliminated, for the purpose of comparing these two classes.

Continued...

Scenario 2: Both job classes have the benefit but at different levels of payment or advantage.

For example, one job class has a plan that pays up to \$50 a year for eye glasses, while the plan for the other class pays up to \$100 a year.

In this case, the benefit has to be valued as in the first scenario but this time separately for both job classes. However, the basis for calculating the cost of the benefit should be the same for both job classes — that is, the cost of providing the higher benefit to the class that currently has the lower advantage.

Here are the two job classes in our example with different levels of eyeglass plan benefits:

Female Job Class		Male Job Class
Level of Benefit	Up to \$50.00/yr per employee or dependant	Up to \$100.00/yr per employee or dependant
Cost to Employer	10 cents/hr per employee	10 cents/hr per employee

In this case, because of more usage in the female job class, the cost to the employer of this benefit is the same for both groups even though the level of benefit is different. Here, one would calculate the cost of providing a \$100.00/yr benefit to the female job class. For the sake of argument, let's assume that would be 15 cents/hr. The compensation gap between these two job classes as a result of this benefit would, therefore, be five cents.

Where both the cost of providing the benefit and the benefit itself are different for the two job classes under the comparison, the calculation must account for both of these differences.

Scenario 3: The difference in benefits is linked to the difference in salary

For example, both classes have a life insurance plan that pays a beneficiary three times the employee's annual salary. The benefit is obviously worth more to the class with the higher salary.

In such cases, no calculation is needed because the benefit will be comparable when the job rate is comparable.

Continued...

Special circumstances

Retirement benefits

There are two basic types of retirement benefit plans in common use.

With a money purchase plan, the size of benefit received by the employee is unknown until the date of retirement and depends on the success of the investments made by the fund's manager(s), who may be the employee her/himself. The cost to the employer of such a plan can be calculated, as it is the amount of the employer's contribution.

With a defined benefit plan, the employer guarantees the employee a retirement income, usually based on a percentage of the employee's salary over a period of years. The cost of this type of plan is more difficult to calculate as it depends on the individual employees' circumstances and career paths. As in other benefit costing, the average cost to the employer of providing the benefit for that job class, or portion thereof, could be used as the value.

Comparisons between part-time and full-time job classes

If the compensation of a part-time job class must be compared with that of a full-time job class, the value of benefits must be standardized on a common time unit — normally on a per-hour basis. The unit value of 40-hour-a-week employees is based on a figure of, for example, 2080 hours a year, even though some of that time is time off for vacation or illness. For 25-hour-a-week employees, the figure is 1310 hours a year, and so on. The cost of the benefit is then pro-rated over the number of hours worked per year.

The types of calculation identified in the scenarios above would still be appropriate.

IMPLEMENTATION CHECKLIST

- a) For pay equity purposes, take into account only the availability of benefits, not whether or not one uses them.
- b) For a female job class and its potential male comparator class, determine which benefits are similar and which have been provided to one class and not the other, or to both classes but at different levels.
- c) Where benefits are different, calculate their value if possible. (If the benefit cannot be practically costed, its inclusion in the calculation of job rate is not required.)
- d) Incorporate the value of the applicable benefits into the calculation of job rate.

Continued...

RELEVANT SECTIONS IN THE ACT

Section 1(1) “compensation”

“Compensation” means all payments and benefits paid or provided to or for the benefit of a person who performs functions that entitle the person to be paid a fixed or ascertainable amount.

REFERENCES

Section 1(5) Decisions regarding job classes

Implementation Series #11: Determining Job Rate — Salaries/Wages/Payments

Section 5 Value Determination

Section 6 Achievement of pay equity

Section 8(4) Positions included

Section 9(1) Reduction of compensation prohibited

Section 13(4) Minimum adjustment

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THE PAY EQUITY COMMISSION



Permissible
Differences in
Compensation

November 1988

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PAY EQUITY IMPLEMENTATION SERIES #13

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Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

The Pay Equity Act, requires that employees in a female job class and those in its male comparator job class be compensated equally. However, the Act does allow some differences in compensation, in the process of developing pay equity plans, based on one or more of five exceptions. (See Section 8(1).)

These permissible differences do not alter the job rate for a job class, but rather what employees in the job class may be paid. This means that, when a permissible difference is used, the job class under consideration is not excluded from use as a comparator class.

Where a female job class and a male job class are found to be equal or comparable in value, some incumbents within a job class may continue to have some degree of difference in compensation if the employer can show that the difference is the result of one or more of the five factors. The following list indicates whether the factor applies to individual incumbents, whole job classes or both:

- ▶ a formal gender-neutral seniority system (incumbent);
- ▶ a temporary employee training or development assignment (incumbent or occasionally job class);
- ▶ a merit compensation plan, based on formal performance ratings, that has been brought to the attention of the employees (incumbent);

Continued...

-
- ▶ red-circling following gender-neutral re-evaluation, where a position has been downgraded and the compensation of the incumbent has been frozen or increases have been slowed down, until the compensation for the position catches up to the compensation actually being received by the incumbent (one or more incumbents or occasionally the whole job class);
 - ▶ a skills shortage that is causing a temporary inflation in compensation (job class or incumbents).

In addition to these five permissible differences, a casual position may be also excluded from consideration for pay equity (see Section 8(3) and (4)), as may some differences which result from bargaining strength, after pay equity has been achieved (see Section 8(2)).

EXPLANATION

Three general principles apply to the use of the permissible differences:

- ▶ It is the employer's responsibility to establish that all or part of the wage difference between incumbents in two comparable job classes is due to one or more of the five permissible differences.
- ▶ The permitted difference in compensation is only the portion that can demonstrably result from one or more of the permissible differences allowed by the Act. For example, if the difference in compensation between two comparable job classes is found to be \$1,000, but \$300 of that difference can be demonstrated to be due to the higher seniority of the incumbents of the male job class, then the pay equity adjustments required for the female job class would be \$700.
- ▶ Permissible differences may only be used when their application is free of gender bias.

Seniority system

The Act allows differences in compensation resulting from the application of a formal seniority system that is recognized by affected employees and that does not discriminate on the basis of gender.

The seniority system of an organization or bargaining unit defines the length of service order of employees relative to each other. It is normally based on length of service or employment.

Employees with seniority are often given certain advantages in matters of promotion, lay-off, recall, and selection of vacation periods.

Continued...

Higher pay granted on the basis of seniority can apply to a particular incumbent within a job class, without affecting the job rate for that class. The job rate may be affected by seniority only when a job class has a single incumbent and there is no official or stated maximum for that class. In that situation, an employer may claim that part or all of the wage difference between that incumbent and the comparable job class is due to seniority.

A “formal” seniority system is normally in written form and may be set out in a collective agreement. If not in written form, some historical and consistent application may be required. In either case, the employer must be able to demonstrate that the system recognizes service to the organization and is known to the employees to whom it applies.

Temporary training or development assignment

Differences in compensation attributable to temporary training or development assignments can be justified under certain circumstances. The Act is specific about the criteria for such assignments:

- ▶ They must be equally open to men and women.
- ▶ They must be developmental in nature — that is, expected to lead to career advancement.
- ▶ They must be temporary for the trainees involved — that is, either of a fixed duration, or until a specific training goal has been achieved.

Training assignment rates may be either lower or higher than those paid for work of equal or comparable value. For example, management trainees are often rotated through a number of non-managerial jobs as part of their training; their training wage may exceed that of their co-workers. On the other hand, sometimes trainees continue to receive the wage of their previous jobs throughout the training period, even though they may be performing work of a higher value. In either case, the wage paid may not reflect the actual job rate of work performed. The employer must be able to show that all or part of the difference in question is attributed to the training assignment. Any remaining portion of the difference is included in the job rate and subject to the pay equity process.

For example, a management trainee who works on a training assignment as an assembly worker — a lower valued, lower paid job — is paid according to the rate established for trainees, rather than the wage normally earned by the assembly workers.

If the assembly worker job class is used as a comparator for a female job class, the normal rate of pay and not the wage earned by the management trainee would be considered the job rate.

Continued...

Merit system

Merit can be used to justify a difference in compensation between incumbents in two equal or comparable job classes if a merit compensation system is in place and is based on formal performance ratings. Employees must know their increases are based on merit and how those increases were determined. In addition, the system must be gender neutral in application.

For example, if only those employees whose performance is judged to be above the requirements of their job can reach the maximum of their salary range, while those who are considered to be performing at the level their jobs require can reach only the reference point (which may or may not be the midpoint of the range), then the portion of the range above the reference point is a permissible difference. Again, the merit compensation must be equally available to female and male employees in the job class. (See Implementation Series #10: Which Job Classes to Compare.)

Red-circling

Red-circling can be used to justify a difference in compensation between some incumbents in two equal or comparable job classes if what led to the red-circling was a gender-neutral re-evaluation process.

Red-circling usually involves withholding some or all of the increases that would normally have been given to an employee whose job has been found to be over-valued. No employee's compensation can be reduced as a result of the pay equity process. (See Section 9(1).)

If increases are given to red-circled employees, the employees in comparable female job classes must receive sufficient adjustments to ensure that the wage gap continues to decrease.

For example, if the job rate of a male job class is valued at \$10 an hour, those currently being paid more than \$10 are red-circled. The comparable female job class is currently being paid \$8 an hour. The differential (\$2 an hour currently) must continue to decrease until pay equity is achieved. At no time can it be increased.

Continued...

Skills shortage

The Act permits differences in compensation resulting from a temporary skills shortage. This is allowed only when the skills shortage is currently causing a temporary inflation in compensation and the employer's difficulty in filling a position is due to a shortage of suitably skilled applicants.

An employer must have a defensible method for determining whether or not a skills shortage exists. For example, an employer should consider whether or not the jobs have been unsuccessfully advertised broadly in the media, for what length of time the search has gone on, whether the rate being offered is competitive in the market, and whether internal candidates have been trained and are now available. Rates reflecting inflation due to a previous, now alleviated, temporary skills shortage do not qualify for exemption under this section.

For example, when a company installed a widget-making system in 1982, widget-makers were in high demand and the company had to increase the pay offered to attract and retain staff. Within three years the situation changed. Students, attracted to the increased pay, flocked to widget-making courses. There were plenty of job candidates, and entry level salaries did not increase as fast as other salaries. But widget-makers received increases in line with others in the company. If a female job class is now compared to the predominantly male job class of widget-makers, the difference in their salaries would not be justified, given the alleviation of the original skills shortage. On the other hand, if the skills shortage was still in effect, the difference in compensation would be permissible.

As another example, consider the case where in a remote centre, no candidates can be found for a skilled position. To fill the position, the employer will have to attract an employee from a distant market which pays higher rates. An employee cannot be trained in the short run. The increase in rate is then identifiable as permissible.

Employers could also refer to outside data, such as labour market surveys, to demonstrate a skills shortage. A combination of market indicators and employer-specific recruitment history could also be used.

IMPLEMENTATION CHECKLIST

- a) After evaluating job classes and determining which ones are equal or comparable, consider whether any of the permissible differences apply to part or all of the wage differences between classes.
- b) In the pay equity plan, document what permissible differences are used, why they are used, and what portion of the job rate is affected by their use.
- c) Make the required wage adjustments, unless permissible differences account for all of the wage discrepancy between equal or comparable job classes.

Continued...

RELEVANT SECTIONS IN THE ACT

Section 8(1) Exclusions from determination

This Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of,

- (a) a formal seniority system that does not discriminate on the basis of gender;
- (b) a temporary employee training or development assignment that is equally available to male and female employees and that leads to career advancement for those involved in the program;
- (c) a merit compensation plan that is based on formal performance ratings and that has been brought to the attention of the employees and that does not discriminate on the basis of gender;
- (d) the personnel practice known as red-circling, where, based on a gender-neutral re-evaluation process, the value of a position has been down-graded and the compensation has been frozen or his or her increases have been curtailed until the compensation for the down-graded position is equivalent to or greater than the compensation payable to the incumbent; or
- (e) a skills shortage that is causing a temporary inflation in compensation because the employer is encountering difficulties in recruiting employees with the requisite skills for positions in the job class.

FOR FURTHER INFORMATION CALL

Pay Equity Hotlines:

Ontario-wide (toll free) 1-800-387-8887
1-800-387-8813

Toronto area (416) 481-3314
(416) 481-3315

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THE PAY EQUITY COMMISSION



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PAY EQUITY IMPLEMENTATION SERIES #14

The implementation guidelines are intended to aid in the self-managed process — or, where bargaining agents are involved, the negotiated process — of achieving pay equity under the Pay Equity Act. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

For pay equity to be achieved, adjustments must be made to the job rates of all female job classes currently being compensated at lower rates than their male comparator classes.

Information about pay equity adjustments must be included in the pay equity plan.

EXPLANATION

Pay equity adjustments are the increases in compensation given to female job classes to bring them up to the level of their male comparator job classes. Such increases include adjustments to salary or wages and benefits (or payments in lieu of benefits). Male employees in female job classes also receive pay equity adjustments.

The Pay Equity Act prohibits employers from reducing the compensation of any employee or of any position or job class in order to achieve pay equity. (See Section 9(1).)

Continued...

Adjustments to salary range

First, (assuming that benefits in both job classes are equivalent), the job rate of the female class will, over time, be moved up to match that of its male comparator class. (See Implementation Series #11: Determining Job Rate — Salaries.)

Second, all incumbents in the female job class will, over time, receive the necessary pay equity adjustments to maintain their relative position within their own salary structure, whether it is a merit-based range or a seniority step system.

Any new employees hired into the female job class during the period when pay equity adjustments are being made should be placed appropriately on the then current salary range for the job class.

Pay equity adjustments need not alter employees' positions in their salary range or their positions relative to each other within their job classes.

Adjustments in compensation – salary and benefits

The discussion in the above section was simplified by considering only salary adjustments. However, compensation includes salary or wages and benefits, and it is the total compensation that must be adjusted. This means that benefits must also be considered in the determination of job rate and in the computation of pay equity adjustments.

For example, let us assume that the salary job rate of a female job class is \$100 less than that of its male comparator class. Furthermore, the male comparator class has an employer-paid insurance policy, which the female class does not have. Pay equity is achieved in this case when:

- ▶ the job rate of the female class is increased by \$100, and appropriate changes are made in the rest of the salary range, and
- ▶ all the incumbents in the female job class have received a salary increase that maintains their current placing on the revised salary range and
- ▶ the female job class receives an employer-paid insurance policy (or, payments in lieu), equivalent to the value (e.g. cost to the employer) of the benefit received by the incumbents of the male comparator class.

Timing of pay equity adjustments

The Pay Equity Act prescribes not only when pay equity plans must be posted but also when pay equity adjustments may begin and, for public sector employers, when they must be complete. (See Section 13(2)(e) and (7).)

Continued...

EMPLOYER	PAY EQUITY ADJUSTMENTS MUST BEGIN	PAY EQUITY ADJUSTMENTS MUST BE COMPLETE
Public sector	January 1, 1990	December 31, 1995
Private sector with 500+ employees	January 1, 1991	No mandatory deadline; at least one per cent of the previous year's payroll must be used for pay equity adjustments each year, until pay equity is achieved.
Private sector with 100-499 employees	January 1, 1992	
Private sector with 50-99 employees who post plans	January 1, 1993	
Private sector with 10-49 employees who post plans	January 1, 1994	
Private sector with 50-99 employees who <u>do not</u> post plans	January 1, 1993	January 1, 1993
Private sector with 10-49 employees who <u>do not</u> post plans	January 1, 1994	January 1, 1994

Public sector employers must begin pay equity adjustments on their mandatory posting date — January 1, 1990. The adjustments must be completed no later than December 31, 1995.

In the private-sector, adjustments may take several years to bring the compensation of female job classes up to that of their male comparators using one per cent of the employer's previous year's payroll each year. Some employers may wish to complete their adjustments more rapidly, using more than one per cent of the previous year's payroll each year.

Private-sector employers with between 10 and 99 employees may prepare and post pay equity plans. If they choose not to do so, they must be in compliance — that is, their compensation practices must provide for pay equity — on their mandatory adjustment date.

Continued...

Pay equity adjustment payouts

The Act prescribes the minimum amount that an employer must spend on pay equity adjustments each year until pay equity is achieved, starting with their first mandatory adjustment date. (See Section 13(4).) This amount is the lesser of

- ▶ one per cent of the employer's total payroll in Ontario for the previous year
- ▶ the amount required to achieve pay equity for all female job classes in all the employer's establishments in Ontario.

Note that the total amount to be paid out may be spread out over an entire 12-month period following the mandatory adjustment date but that some amount must be paid out on the mandatory date. Such total amount must not be less than one per cent of the previous year's payroll (or the amount necessary to achieve pay equity,) whichever is less. Employers and unions may negotiate the size and timing of such adjustments for the 12-month period.

Public sector employers — who must achieve pay equity by January 1, 1995 — might be required to spend more than the one per cent of the previous year's payroll in a single year, in order to meet their 1995 deadline.

Also, private sector employers with fewer than 100 employees, who choose not to post plans, do not have the option of phased-in adjustments and must achieve pay equity on their mandatory first-adjustment dates.

It is important to note that the minimum amount to be set aside for pay equity adjustments is based on the employer's total payroll for the previous year — the total of all wages and salaries payable to employees in Ontario. Employers should also be aware that the one per cent does not include any administrative cost associated with the pay equity implementation process. (See Implementation Series #12: Determining Job Rate — Benefits.) Payroll does not include benefits. But the required adjustments to the compensation of female job classes are calculated on the basis of payments and benefits.

Each year the actual amount available for payment will probably be different, as it is based on one per cent of the previous year's payroll, which will vary from year to year. The entire one per cent, or portion thereof, required to achieve pay equity should be paid out during each 12-month period until pay equity is achieved.

The amount available for payout each year is distributed to incumbents in the female job classes that have been found to be undervalued in relation to their male comparator job classes. As these payments are incorporated in the job rates, employees who are hired into these female job classes during the period when adjustments are being made will receive the then appropriate current compensation for employees in their job classes.

Continued...

Distribution of pay equity adjustments

For organizations that have more than one establishment and/or more than one pay equity plan, the employer (in agreement with the bargaining agents, when bargaining units are involved) can decide how to distribute the available funds. Three criteria set out in the Act must be observed:

- ▶ The female job classes with the lowest job rates in each pay equity plan must receive larger increases than other job classes in the same plan until pay equity is achieved or until they are paid at least as much as the next lowest female job classes in the same plan. (See Section 13(3).)
- ▶ All affected female job classes must receive a pay equity adjustment each year until pay equity is achieved. (See Section 13(2)(d) and 3(3).)
- ▶ All jobs in an affected job class must receive the same adjustment in dollar terms and all incumbents must receive an adjustment each year. (See Section 9(3).)

Pay equity adjustments could be distributed in a number of ways among the different job classes and different pay equity plans. Some possible approaches include the following:

- ▶ Similar pay equity adjustments could be given to all female job classes requiring adjustments (except that the female job class with the lowest job rate will receive more); or
- ▶ Larger pay equity adjustments could be given to the female job classes that have the greatest discrepancy (except that the female job class with the lowest job rate will receive more); or
- ▶ One per cent of the previous year's payroll for each pay equity plan could be apportioned to incumbents in that unit who are entitled to pay equity adjustments. (If one unit does not require its full one per cent in order to achieve pay equity, the remainder of its portion would then be available to other units where more pay equity adjustments are required); or
- ▶ Larger pay equity adjustments could be given to the job classes with small discrepancies, since pay equity can be achieved quickly for these job classes (except that the female job class with the lowest job rate will receive more.)

Continued...

Retroactive adjustment payments

Pay equity adjustments must begin no later than the mandatory dates set out in the Act. (See schedule above.) There is no requirement for pay equity increases before an employer's mandatory adjustment date, but some employers may wish to begin making adjustments before their relevant dates.

Retroactivity is only an issue if pay equity adjustments are not begun and/or completed according to the schedule. For example, the complaint resolution process could go on past the employer's mandatory adjustment date, in which case incumbents of female job classes would receive increases retroactive to that date, once the issue is resolved.

Employees who were in an affected job class when a pay equity adjustment was applicable should receive appropriate payments even if they have left the job class and/or the organization by the time the adjustments are actually given and can be reasonably located. That is, the adjustments would be retroactive to the mandatory adjustment date.

IMPLEMENTATION CHECKLIST

- a) Observe the schedule for starting (and, where applicable, completing) pay equity adjustments.
- b) Calculate the one per cent of the previous year's total Ontario payroll to be devoted to pay equity adjustments.
- c) Determine the actual distribution of this amount, keeping in mind the following criteria:
 - ▶ Female job classes with the lowest job rate receive accelerated increases.
 - ▶ All affected female job classes receive some pay equity adjustment each year until pay equity is achieved.
 - ▶ All jobs of an affected job class must receive the same adjustment in dollar terms, and all incumbents must receive an adjustment each year.
 - ▶ The wage gap between a female job class and its male comparator class must not be allowed to increase for any reason.
- d) Decide how the one per cent of payroll will be distributed among the various pay equity plans in the employer's establishment(s).
- e) Provide any new employee joining an affected job class during the adjustment period with a salary based on the adjustments completed at that point in time.
- f) Do not reduce the salary of any job class or any employee in an effort to facilitate the achievement of pay equity.

Continued...

RELEVANT SECTIONS IN THE ACT

Section 9(1) **Reduction of compensation prohibited**

An employer shall not reduce the compensation payable to any employee or reduce the rate of compensation of any position in order to achieve pay equity.

Section 9(3) **Compensation adjustments**

Where, to achieve pay equity, it is necessary to increase the rate of compensation for a job class, all positions in the job class shall receive the same adjustment in dollar terms.

Section 13 **Pay equity plans required/minimum & maximum adjustments**

(2) If both female job classes and male job classes exist in an establishment, every pay equity plan for the establishment,

(d) shall with respect to all female job classes for which pay equity does not exist according to the comparisons under section 12, describe how the compensation in those job classes will be adjusted to achieve pay equity; and

(e) shall set out the date on which the first adjustments in compensation will be made under the plan, which date shall not be later than,

(i) the second anniversary of the effective date, in respect of employers in the public sector,

(ii) the third anniversary of the effective date, in respect of employers in the private sector who have at least 500 employees on the effective date,

(iii) the fourth anniversary of the effective date, in respect of employers in the private sector who have at least 100 but fewer than 500 employees on the effective date,

(iv) the fifth anniversary of the effective date, in respect of employers in the private sector who have at least fifty but fewer than 100 employees on the effective date and who have posted a notice under section 20, and

(v) the sixth anniversary of the effective date, in respect of employers in the private sector who have at least ten but fewer than fifty employees on the effective date and who have posted a notice under section 20.

Continued...

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- (3) A pay equity plan shall provide that the female job class or classes that have, at any time during the implementation of the plan, the lowest job rate shall receive increases in rates of compensation under the plan that are greater than the increases under the plan for other female job classes until such time as the job rate for the female job class or classes receiving the greater increases is equal to the lesser of,
- (a) the job rate required to achieve pay equity; and
 - (b) the job rate of the female job class or classes entitled to receive an adjustment under the plan with the next lowest job rate.
- (4) the first adjustments in compensation under a pay equity plan are payable as of the date provided for in clause (2)(e) and shall be such that the combined compensation payable under all pay equity plans of the employer during the twelve-month period following the first adjustments shall be increased by an amount that is not less than the lesser of,
- (a) 1 per cent of the employer's payroll during the twelve-month period preceding the first adjustments; and
 - (b) the amount required to achieve pay equity.
- (5) Adjustments shall be made in compensation under a pay equity plan on each anniversary of the first adjustments in compensation under the plan and shall be such that during the twelve-month period following each anniversary the combined compensation payable under the pay equity plans of the employer shall be increased by an amount that is no less than the lesser of,
- (a) 1 per cent of the employer's payroll during the twelve-month period preceding the anniversary; and
 - (b) the amount required to achieve pay equity.
- (6) Except for the purposes of making retroactive adjustments in compensation under a pay equity plan or unless required to do so by an order described in clause 36(g) nothing in this Act requires an employer to increase compensation payable under the pay equity plans for the employer during a twelve-month period in an amount greater than 1 percent of the employer's payroll during the preceding twelve-month period.

Continued...

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- (7) Notwithstanding subsection (6), pay equity plans in the public sector shall provide for adjustments in compensation such that the plan will be fully implemented not later than the seventh anniversary of the effective date.
- (11) Every employer who prepares and implements a pay equity plan under this Part shall be deemed not to be in contravention of subsection 7(1) with respect to those employees covered by the plan or plans that apply to the employees but only with respect to those compensation practices that existed immediately before the effective date. 1987, c. 34, s.13.

For private-sector employers with more than nine and fewer than 100 employees:

Section 21(1) Transition

Notwithstanding section 7(1) or (2), an employer to whom Part III applies may maintain compensation practices that were in existence in the employer's establishment immediately before the effective date,

- (a) until the fifth anniversary of the effective date, if the employer employs at least fifty but fewer than 100 employees on the effective date; and
- (b) until the sixth anniversary of the effective date, if the employer employs at least ten but fewer than fifty employees on the effective date....

REFERENCES

Implementation Series #11: Determining Job Rate — Salary

Implementation Series #12: Determining Job Rate — Benefits

FOR FURTHER INFORMATION CALL

Pay Equity Hotlines:

Ontario-wide (toll free) 1-800-387-8887
1-800-387-8813

Toronto area (416) 481-3314
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THE PAY EQUITY COMMISSION

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January 1989

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guidelines are published.*

THE PAY EQUITY COMMISSION



Pay Equity
Plans

January 1989

PAY EQUITY IMPLEMENTATION SERIES #15

The implementation guidelines are intended to aid in the self-managed process — or, where bargaining agents are involved, the negotiated process — of achieving pay equity under the Pay Equity Act. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

SIGNIFICANCE

The purpose of pay equity plans is to demonstrate in some detail how pay equity will be achieved in Ontario's workplaces. They must include specific information, such as the identification of job classes involved in comparisons, a description of the gender-neutral method of comparison used, an explanation of how wage adjustments will be made, as well as other data. (See Section 13(1) and (2).)

Pay equity plan documents must be posted prominently where they may be read by all employees in the workplace.

Where unions are involved, a number of issues are negotiated, for example: the pay equity plan for the bargaining unit, the determination of establishment, the determination of whether a job class is female or male, and the gender-neutral method of comparison to be used. In addition, the Act states that the bargaining agent and the employer must negotiate in good faith. In non-union settings, employers initiate and are responsible for the development of plans, but may wish to involve employees in the process.

Continued...

EXPLANATION

Development of pay equity plans

Separate pay equity plans must be developed for each bargaining unit and for all non-union employees in each establishment. The number of plans required for an organization thus depends upon the number of establishments involved and the number of bargaining units in each establishment. (See Implementation Series #4: Definition of Establishment.)

Content of pay equity plans

- ▶ Pay equity plans should identify the bargaining unit or non-union group covered by the plan and Section 13 outlines the minimum content of a pay equity plan.
- ▶ Definition of establishment: Where bargaining units are involved, the employer can negotiate with the bargaining agent(s) to expand the definition of establishment, as well as whether job classes covered by the proposed plan are female or male. Where non-unionized employees are involved, the employer can make these decisions unilaterally, although subject to complaint once plans are posted.
- ▶ List of all female and male job classes in the unit to whom the plan applies, as well as any male job classes in other units of the establishment, which are being used as comparators: This could include identification of the various jobs within each job class, if these are not generally clear to employees.
- ▶ Description of the gender-neutral comparison system: The selection and content of the system must be negotiated by the employer and the bargaining agent(s); where non-unionized employees are involved, the employer can choose the system, subject to possible complaint by employees after posting. Any system selected must measure job value using a composite of the four factors — skill, effort, responsibility and working conditions. It must also be gender neutral in design and in application. (See Implementation Series #9: Gender-Neutral Job Comparison.)

Continued...

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- ▶ Results of value comparisons: The values assigned to female and selected male job classes should be described in terms appropriate to the system being used. Once job classes have been compared and found to be of equal or comparable value, their compensation is then compared to determine whether inequities exist. (See Implementation Series #10, #11, #12: Which Job Classes to Compare, Determining Job Rate — Salaries/Wages/Payments, and Determining Job Rate — Benefits.)
 - ▶ Explanation of permissible differences (exclusions): The plan needs to identify the use of, and reasons for relying on, any of the exclusions allowed under Section 8(1) and (3): seniority, merit pay, temporary training assignment, red-circling, temporary skills shortage and casual positions. (See Implementation Series #13: Permissible Differences in Compensation.)
 - ▶ Identification of all female job classes for which pay equity adjustments are required: The plan should also describe how the compensation of those job classes will be adjusted, with specific information about the first adjustments to be made. (See Implementation Series #14: Pay Equity Adjustments.)
 - ▶ Date of first adjustments: The date listed in the plan must not be later than the mandatory adjustment date set out in the Act under Section 13 (2) (e).

Where pay equity will not be achieved with the first adjustments, the plan should also include sufficient information for employees and bargaining agents to determine that the one per cent of annual payroll to be devoted to wage adjustments in the first year of the plan has been properly calculated. An auditor's statement may be used for this purpose. (See Implementation Series #8: Disclosing Information.)

Adjustments for the second and following year(s) of a pay equity plan can only be estimated based on payroll projections. Where unions are involved, the parties will need to work out an acceptable approach.

Continued...

Included as an appendix to this guideline
are four sample pay equity plans.

The posted document should identify that updates will be provided annually to cover the second and subsequent year(s) of any pay equity plan when information concerning annual payrolls and incumbents are available.

Posting of pay equity plans

The timetable of mandatory posting dates set out in Section 10 of the Act indicates when plans must be completed and posted in the workplace.

<u>Size of employer</u>	<u>Mandatory posting date</u>
All public sector employers	January 1, 1990
500 employees or more in the private sector	January 1, 1990
100-499 employees in the private sector	January 1, 1991
50-99 employees in the private sector (optional)	January 1, 1992
10-49 employees in the private sector (optional)	January 1, 1993

Once a pay equity plan covering a bargaining unit has been agreed to by the bargaining agent and the employer and has been posted in the workplace, the plan is considered approved. However, even an approved plan is subject to complaints of a certain nature (e.g. that it includes compensation practices that, if adopted, would not provide for pay equity in accordance with Section 7 of the Act). Unions will have to decide if and how pay equity plans are to be ratified by their members.

For non-union employees, whose plans may be fully prepared by the employer, comments can be made or objections filed with the Pay Equity Commission during a period following the posting of the plan. (See Section 15(4) to (8).)

Continued...

IMPLEMENTATION CHECKLIST

The Implementation Checklist to this guideline is in the form of a chart, and refers to other guidelines in the Pay Equity Implementation Series which explain more fully some of the steps involved.

STEPS TO PAY EQUITY	HOW TO DO	COMPONENTS OF A PAY EQUITY PLAN
1. Determine: (a) employer; (b) number of employees; (c) number of establishments; (d) number of plans required.	To define the employer and number of employees, refer to the <u>Implementation Series #2 and #3</u> . Establishments can be expanded through negotiations, or by the employer in a non-union context. From this information you will know how many plans you will need. For private sector employers, calculate the number of employees. The total number of employees will determine the date pay equity adjustments are to begin.	Identify the establishment Section 13(1)(a). Include a description of the bargaining units or non-bargaining unit groups covered by the plan. Identify applicable timelines for wage adjustments.
2. Determine female job classes and male job classes.	Job classes are composed of jobs which have similar duties and responsibilities, require similar qualifications, have the same compensation schedule, salary grade or range of salary rates, and are filled by similar recruitment procedures.	Identify all job classes which formed the basis of the comparison Section 13(2)(b). Where a job class consists of more than one job, list the jobs.
3. Select an appropriate gender-neutral comparison system.	Systems must utilize the criteria outlined by Section 5(1) of the <u>Act</u> : skill; effort; responsibility and working conditions.	Describe the gender-neutral comparison system (Section 13(2)(b)). Include information on the method used, the definition of criteria used and the weighting of factors, if applicable.
4. Evaluate all female job classes and all male job classes which appear to be potential comparators.	To ensure results are gender-neutral, there can be no gender bias in: the job collection and information, the comparison system and the actual evaluation.	The results of the comparison as required by Section 13(2)(b) are to be incorporated in the pay equity plan as described below in steps 5 and 6.

Continued...

STEPS TO PAY EQUITY	HOW TO DO	COMPONENTS OF A PAY EQUITY PLAN
5. Determine possible comparable jobs.	The <u>Act</u> outlines a sequential comparison process which determines which female job class will be compared to which male job class.	For each female job class identify the male comparator class to be used or state that no comparator exists.
6. Compare compensation of each female job class with that of their male comparator class.	To do these comparisons, adjust the wage and salaries to a common base (for example, hourly). Then sort the data by male and female job class, value and job rate. The cost of benefits must also be calculated into the job rate.	Identify differences in compensation which must be made up. If a permissible difference is being used, indicate: (a) for which male comparator job class(es); (b) which permissible difference is being used; and (c) why. Indicate the portion of the job rate which is due to the permissible differences outlined above.
7. Determine adjustments required to achieve pay equity.	The <u>Act</u> outlines a process which determines the adjustment of the female classes. For each plan one must determine where to make adjustments, as well as the rate and timetable for the adjustments. Up to one per cent of the payroll, or the amount to achieve pay equity, whichever is less, must be put into the adjustments for all pay equity plans.	Describe how compensation in job classes without pay equity will be adjusted. (Sections 13(2)(d), 13(3) to (22)). List each female job class to be adjusted. You may list the current job rate. List the job rate difference between each female job class and its male comparator. List the pay equity adjustment to be made this year. List the payroll period in which the first adjustments will be made and the date on which the payment will commence.
8. Prepare a pay equity document.	A pay equity plan must be completed for each bargaining unit and one for the non-bargaining unit in each establishment.	Ensure the plan is complete.

Continued...

STEPS TO PAY EQUITY	HOW TO DO	COMPONENTS OF A PAY EQUITY PLAN
9. Post the pay equity plan.		Post the plan in a visible area so all the employees are able to review it.
10. Deal with any objections and/or official complaints.	Refer to the Pay Equity Act and Implementation Series #16: <u>Dispute Resolution</u> for further information.	<p>Facilitate the resolution of questions, concerns, complaints.</p> <p>Non-unionized employees have a 90-day period to review the plan.</p> <p>The plan is considered approved when no concerns are forthcoming from non-unionized employees and 127 days after the mandatory posting date have elapsed.</p> <p>Plans with unions will be considered approved when the bargaining agents and employers agree to its terms.</p> <p>A review officer will attempt to effect a settlement. Unions, employees or employers may request a hearing concerning a review officer's order.</p>
11. Make required adjustments.		Make required adjustments.

Continued...

RELEVANT SECTIONS IN THE ACT

Section 13(1) and (2) Pay equity plans required

- (1) Documents, to be known as pay equity plans, shall be prepared in accordance with this Part to provide for pay equity for the female job classes in each establishment of every employer to whom this Part applies and...
- (a) shall identify the establishment to which the plan applies; and
 - (b) shall identify all job classes which formed the basis of the comparisons under section 12.
- (2) If both female job classes and male job classes exist in an establishment, every pay equity plan for the establishment,
- (a) shall describe the gender-neutral comparison system used for the purposes of section 12;
 - (b) shall set out the results of the comparisons carried out under section 12;
 - (c) shall identify all positions and job classes in which differences in compensation are permitted by subsection 8(1) or (3) and give the reasons for relying on each subsection;
 - (d) shall, with respect to all female job classes for which pay equity does not exist, according to the comparison under section 12, describe how the compensation in those job classes will be adjusted to achieve pay equity; and
 - (e) shall set out the date on which the first adjustments in compensation will be made under the plan, which date shall not be later than,
 - (i) the second anniversary of the effective date, in respect of employers in the public sector,
 - (ii) the third anniversary of the effective date, in respect of employers in the private sector who have at least 500 employees on the effective date,
 - (iii) the fourth anniversary of the effective date, in respect of employers in the private sector who have at least 100 but fewer than 500 employees on the effective date,
 - (iv) the fifth anniversary of the effective date, in respect of employers in the private sector who have at least 50 but fewer than 100 employees on the effective date and who posted a notice under section 20, and
 - (v) the sixth anniversary of the effective date, in respect of employers in the private sector who have at least 10 but fewer than 50 employees on the effective date and who have posted a notice under section 20.

Continued...

Section 14(1) to (5) **Establishments with bargaining units**

- (1) In an establishment in which any of the employees are represented by a bargaining agent, there shall be a pay equity plan for each bargaining unit and a pay equity plan for that part of the establishment that is not in any bargaining unit.
- (2) The employer and the bargaining agent for a bargaining unit shall negotiate in good faith and endeavour to agree, before the mandatory posting date, on,
 - (a) the gender-neutral comparison system used for the purposes of section 12; and
 - (b) a pay equity plan for the bargaining unit.
- (3) As part of the negotiations required by subsection (2), the employer and the bargaining agent may agree, for the purposes of the pay equity plan,
 - (a) that the establishment of the employer includes two or more geographic divisions; and
 - (b) that a job class is a female job class or a male job class.
- (4) When an employer and a bargaining agent agree on a pay equity plan, they shall execute the agreement on or before the mandatory posting date, and the employer shall post a copy of the plan in the workplace.
- (5) When a pay equity plan has been executed by an employer and a bargaining agent, the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

Section 15(4) to (8) **Employee review**

- (4) The employees to whom a pay equity plan required by this section or subsection 14(8) applies shall have until the ninetieth day after the mandatory posting date to review and submit comments to the employer on the plan.
- (5) If as a result of comments received during the review period referred to in subsection (4), the employer is of the opinion that a pay equity plan should be changed, the employer may change the plan.
- (6) Not later than seven days after the end of the review period referred to in subsection (4), the employer shall post in the workplace a notice stating whether the pay equity plan has been amended under this section and, if the plan has been amended, the employer shall also post a copy of the amended plan with the amendments clearly indicated.

Continued...

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- (7) Any employee or group of employees to whom a pay equity plan applies, within thirty days following a posting in respect of the plan under subsection (6), may file a notice of objection with the Commission whether or not the employee or group of employees has submitted comments to the employers under subsection (4).
- (8) If no objection in respect of a pay equity plan is filed with the Commission under subsection (7), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

REFERENCES

Implementation Series #4: Definition of Establishment

Implementation Series #7: Determining Gender Predominance

Implementation Series #8: Disclosing Information

Implementation Series #9: Gender-Neutral Job Comparison

Implementation Series #10: Which Job Classes to Compare

Implementation Series #11: Determining Job Rate — Salaries/Wages/Payments

Implementation Series #12: Determining Job Rate — Benefits

Implementation Series #13: Permissible Differences in Compensation

Implementation Series #15: Pay Equity Plans

FOR FURTHER INFORMATION CALL

Pay Equity Hotlines:

Ontario-wide (toll free) 1-800-387-8887
1-800-387-8813

Toronto area (416) 481-3314
(416) 481-3315

Continued...

APPENDIX – SAMPLE PAY EQUITY PLANS

The following pay equity plans are samples and are intended to be used for educational and informational purposes only. These plans are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment. Plans may, for example, vary in the degree of detail provided; the examples that follow tend to show the two extremes.

1. Sample Pay Equity Plan #1 for XYZ Company

This plan is an example of a non-union pay equity plan providing basic information. The example covers a company with fewer than 100 employees.

2. Sample Pay Equity Plan #2 for LMN Manufacturing Inc.

This plan is an example of a non-union pay equity plan providing information in greater detail. The example covers a company with fewer than 100 employees.

3. Sample Pay Equity Plan #3 for The Trucking Company

This plan is an example of an unionized pay equity plan providing basic information. The example covers job classes in one bargaining unit for a company with over 500 employees with no female comparator job class.

4. Sample Pay Equity Plan #4 for JK School Board

This plan is an example of a unionized public sector pay equity plan with basic information. The example covers one bargaining unit within the school board. It includes one cross-comparison with another bargaining unit.

Continued...

Example of Non-Union Pay Equity Plan with basic information for company with fewer than 100 employees.

SAMPLE PAY EQUITY PLAN (#1)

XYZ COMPANY

12 Somewhere Road
Anywhere, Ontario

A. Date of posting and pay equity adjustments

As stated in the notice of decision required by Section 20(1) of the Pay Equity Act, which was posted on March 1, 1988, XYZ Company has posted the following Pay Equity Plan on January 1, 1993.

Pay equity adjustments are to begin on January 1, 1994.

B. Establishment

This plan refers to the location mentioned above.

C. Jobs covered by this plan

The total number of employees in XYZ Company is 45.

This plan covers all jobs of XYZ Company.

D. Gender-predominant job classes

The following job classes are male job classes:

President
Manager
Warehouse Help
Maintenance Worker

The following job classes are female job classes:

Secretary
Assembler

Continued...

E. Method of comparison

The method of comparison used was the Grade Description Method.

The Grade Description Method is a descriptive job evaluation method in which three job grades were established.

Each job grade was described in terms of skill, effort, responsibility and working conditions. Job information on each job class at XYZ was compared against the description of each job grade which had been created. Each job class was assigned to the job grade which it most closely resembled in terms of the composite of skill, effort, responsibility and working conditions.

In all cases job classes, not individuals working in the job class, were compared.

F. Comparison results

The following female and male job classes were found to be of equal value.

GRADE	FEMALE JOB CLASS	MALE JOB CLASS	COMPENSATION DIFFERENCE BASED ON THE JOB RATE
3	Secretary	Maintenance Worker	\$1.25
2	Assembler	Warehouse Help	\$1.00

G. Pay equity adjustments

Section 13(4) of the Pay Equity Act requires that one per cent of the total payroll be used for pay equity adjustments.

The estimated total payroll of XYZ Company for 1993 is \$816,000.

The estimated amount to be spent in 1994 for pay equity adjustments is \$8,160.

The Pay Equity Act states that the female job class with the lowest job rate (i.e. Secretary) shall receive increases in compensation that are greater than the increases under the Pay Equity Plan for other female job classes (i.e. Assembler).

This is to continue until such time as the job rate for the Secretary job class is equal to the job rate of the Assembler or until pay equity is achieved.

The annual estimated pay equity adjustment is the adjustment per hour (this will vary based on where individual incumbents are on the salary range/step structure) multiplied by the number of hours per week times 52 weeks in a year. At XYZ, the Secretary and Assembler job classes work 36.5 hours per week or 1,898 per year (36.5 X 52).

Continued...

FEMALE JOB CLASS	PRESENT JOB RATE*	PAY EQUITY ADJUSTMENT FOR 1994	ADJUSTED JOB RATE FOR 1994	REMAINING PAY EQUITY ADJUSTMENT REQUIRED BASED ON CURRENT JOB RATE
Secretary	\$ 6.80	\$ 0.28	\$ 7.08	\$ 0.97
Assembler	\$ 7.00	\$ 0.15	\$ 7.15	\$ 0.85

*Job rate is defined by the Pay Equity Act Section 1(1) as the highest rate of compensation (salary plus benefits) for a job class.

H. Cost of adjustments

FEMALE JOB CLASS	HOURLY PAY EQUITY ADJUSTMENT	TOTAL NUMBER OF HOURS WORKED PER YEAR	YEARLY PAY EQUITY ADJUSTMENT*	NUMBER OF EMPLOYEES	TOTAL PAY EQUITY COST (1994)
Secretary	\$ 0.28	1,898	\$ 531.44	10	\$ 5,314.40
Assembler	\$ 0.15	1,898	\$ 284.70	10	\$ 2,847.00
This amount equals 1% of payroll.					\$ 8,161.40

*This will vary based on where individual incumbents are on the salary range/step structure.

I. For further information please contact:

Jane Doe, Director of Personnel at 123-4556.

J. Approval

Name *
Title

Date

* Individual who has the necessary authority and responsibility in the company for such plan.

Continued...

Example of Non-Union Pay Equity Plan in greater detail for a company with fewer than 100 employees.

SAMPLE PAY EQUITY PLAN (#2)

LMN MANUFACTURING INC.

150 5th Avenue NW

Willowdale, Ontario

A. Date of posting and pay equity adjustments

As stated in the notice of decision required by Section 20(1) of the Pay Equity Act which was posted on September 1, 1988, LMN Company has posted the following Pay Equity Plan on January 1, 1992.

Pay equity adjustments are to begin January 1, 1993.

B. Establishment

This plan refers to the location mentioned above.

C. Jobs covered by this plan

The total number of employees in LMN Manufacturing is 89.

This plan covers all non-union jobs of LMN MANUFACTURING INC.

D. Job classes covered by this plan

The following ten job classes were identified:

President

Vice-President

Manager

Secretary

Typist*

Receptionist

General Repair Person

Tool and Die Maker

Computer Operator

Janitor

*The following jobs were grouped into the job class of typist:

Word Processor

Database Processor

Statistical Typist

General Correspondence Typist

Continued...

E. Gender-predominant job classes

The following chart illustrates the gender predominance of each job class:

JOB CLASS	TOTAL NUMBER OF EMPLOYEES IN JOB CLASS	TOTAL NUMBER OF FEMALES	PERCENTAGE FEMALE
FEMALE			
Secretary	20	20	100%
Typist	25	25	100%
Receptionist	5	5	100%
MALE			
President	1	0	0%
General Repair Person	10	1	10%
Tool and Die Maker	10	0	0%
Computer Operator	10	2	20%
GENDER NEUTRAL			
Vice-President	4	2	50%
Manager	4	2	50%

F. Method of comparison

The method of comparison used was Point Factor Job Evaluation.

This method results in a point value being assigned to each job class.

Points were grouped together as follows: between 100 – 125, 126 – 150, and so on.

A set of factors (given below) was identified. Those criteria represent those aspects of jobs which were deemed to be most important. The factors used were a composite of skill, effort, responsibility and working conditions as required by the Pay Equity Act.

Each factor was broken down into different levels.

Continued...

Each factor was weighted so that those of most importance were given higher weightings (see below). Based on the number of levels of the factors and their weighting, each level of each factor was worth a certain number of points. Each factor was weighted so that those of most importance were given a higher weighting. A description of each job class was compared against each factor and points were assigned. The total number of points allocated to each job class based on the various factors resulted in a total number of points per job class.

When choosing factors the Human Resources Department ensured that they were not biased according to gender and that they could be applied equally to men and women. For example: working with people (a feature common to the female job classes) and working with machines (a feature common to male job classes) were equally valued.

The criteria factors and their weightings are as follows:

SKILL	40%
▶ working with people	10%
▶ working with machines/equipment	10%
▶ working with data	10%
▶ writing standard English	5%
▶ writing technical English	5%
EFFORT	30%
▶ physical effort	10%
▶ mental effort	10%
▶ complexity of duties	10%
RESPONSIBILITY	20%
▶ contact with others	7%
▶ handle confidential data	4%
▶ supervisory duties	9%
WORKING CONDITIONS	10%
▶ adverse working conditions	5%
▶ environmental influences	5%

Continued...

Find attached the definitions for each factor level and the points associated with each.
(Not included in sample plan.)

Also find attached the points given to each sub-factor for each job.
(Not included in sample plan.)

All jobs were evaluated by a job evaluation committee. The committee members and their positions were:

K. Doran, President
A. Sharma, Computer Operator
R. Lyons, Receptionist

Find attached all the job descriptions.
(Not included in sample plan.)

G. Comparison results

FEMALE JOB CLASS

JOB CLASS	JOB VALUE	JOB CLASS SALARY RATE	JOB CLASS BENEFITS RATE	TOTAL JOB CLASS RATE*
Secretary	206	\$ 6.19	\$ 2.06	\$ 8.25
Receptionist	150	\$ 5.20	\$ 2.40	\$ 7.60
Typist	172	\$ 6.30	\$ 2.10	\$ 8.40

*Job rate is defined by the Pay Equity Act Section 1(1) as the highest rate of compensation (salary plus benefits) for a job class.

MALE JOB CLASS

JOB CLASS	JOB CLASS VALUE	JOB CLASS SALARY RATE	JOB CLASS BENEFITS RATE	TOTAL JOB CLASS RATE*
Repairperson	200	\$ 7.80	\$ 2.60	\$10.40
Janitor	150	\$ 6.25	\$ 2.75	\$ 9.00
Computer Operator	180	\$ 7.50	\$ 2.50	\$10.00

*Job rate is defined by the Pay Equity Act Section 1(1) as the highest rate of compensation (salary plus benefits) for a job class.

Continued...

DIFFERENCES IN COMPENSATION FOR JOB CLASSES OF COMPARABLE VALUE

The following female and male job classes were found to be of equal or comparable value:

FEMALE JOB CLASS	FEMALE JOB CLASS RATE	MALE JOB CLASS	MALE JOB CLASS RATE	DIFFERENCES IN COMPENSATION AT THE JOB RATE*
Secretary	\$ 8.25	Repair Person	\$10.40	\$ 2.15
Receptionist	\$ 7.60	Janitor	\$ 9.00	\$ 1.40
Typist	\$ 8.40	Computer Operator	\$10.00	\$ 0.60**

*This will vary based on where individual incumbents are on the salary range/step structure.

**\$1.00 difference is due to permissible difference. See next chart.

PERMISSIBLE DIFFERENCE

FEMALE JOB CLASS	MALE JOB CLASS	DIFFERENCE BETWEEN MALE AND FEMALE JOB RATE	PORTION OF THE JOB RATE THAT IS A PERMISSIBLE DIFFERENCE*	DIFFERENCES IN COMPENSATION TAKING PERMISSIBLE DIFFERENCES INTO ACCOUNT
Typist	Computer Operator	\$ 1.60	\$ 1.00	\$ 0.60

*The permissible difference is based on a "skills shortage" as per Section 8(1)(e) of the Pay Equity Act. The employer has evidence on hand to indicate that the difference in wages of \$1.00/hour would impact on the attraction and retention of employees performing this work.

H. Pay equity adjustment

Section 13(4) of the Pay Equity Act requires that one per cent of the total payroll be used for pay equity adjustments.

The estimated total payroll of LMN Company for 1992 is \$2,011,800.

The estimated amount to be spent in 1993 for pay equity is \$20,118.

The Pay Equity Act states that the female job class with the lowest job rate (Receptionist) shall receive increases in compensation that are greater than the increases under the Pay Equity Plan for other female job classes (Secretary).

Continued...

This is to continue until such time as the job rate for the Receptionist job class is equal to the job rate of the Secretary or the job rate required to achieve pay equity.

The annual pay equity adjustment is the adjustment per hour (this will vary based on where individual incumbents are on the salary range/step structure) multiplied by the number of hours per week times 52 weeks in a year. At LMN the Secretary, Receptionist and Typist work 36.5 hours per week or 1,898 hours per year (36.5 X 52).

FEMALE JOB CLASS	PRESENT JOB RATE	ADJUSTMENT FOR 1993	ADJUSTED JOB RATE FOR 1993	REMAINING PAY EQUITY ADJUSTMENT BASED ON CURRENT JOB RATE
Secretary	\$ 8.25	\$ 0.18	\$ 8.43	\$ 1.97
Receptionist	\$ 7.60	\$ 0.50	\$ 8.10	\$ 0.90
Typist	\$ 8.40	\$ 0.18	\$ 8.58	\$ 0.42

I. Costs of adjustments

FEMALE JOB CLASS	HOURLY PAY EQUITY ADJUSTMENT	TOTAL NUMBER OF HOURS WORKED PER YEAR	YEARLY PAY EQUITY ADJUSTMENT*	NUMBER OF EMPLOYEES	TOTAL PAY EQUITY COST (1992)
Secretary	\$ 0.18	1,898	\$ 341.64	20	\$ 6,832.80
Receptionist	\$ 0.50	1,898	\$ 949.00	5	\$ 4,745.00
Typist	\$ 0.18	1,898	\$ 341.64	25	\$ 8,541.00

This amount equals 1% of payroll. \$20,118.80

*This will vary based on where individual incumbents are on the salary range/step structure.

J. For further information, questions or comments

Contact John Doe, Director of Personnel, 123-4556.

K. Pay equity plan approval

Name
Title*

Date

*Individual who has the necessary authority and responsibility in the company for such plan.

Continued...

*Example of Union Pay Equity Plan with no female job classes,
with basic information for a company with over 500 employees.*

SAMPLE PAY EQUITY PLAN (#3)

THE TRUCKING COMPANY

Highway 200
Beauvillage, Ontario

A. Date of posting and pay equity adjustments

This Pay Equity Plan was posted on January 1, 1991.
Pay equity adjustments are not required in this plan.

B. Establishment

This plan refers to the garage and depot at the above-mentioned location.

C. Jobs covered by this plan

The total number of employees in the province of Ontario of The Trucking Company is 550.

This plan covers all unionized jobs of Union Local X at The Trucking Company's Beauvillage depot.

The jobs at The Trucking Company head office and the jobs at The Trucking Company Depot in Beauvillage are covered by two other separate Pay Equity Plans.

D. Gender-predominant job classes

The following job classes are male job classes:

Truck Driver
Garage Repairperson

Continued...

E. Method of comparison

Since there are no female job classes within this plan, there are no comparisons to be made.

Due to the absence of any female job classes, no further details are required in developing a pay equity plan for this bargaining unit.

F. Adjustments

Since no comparisons were required, no pay equity adjustment is required.

G. For further information

Joe Peskiodie, Personnel Manager, 239-3945.

Lou Bianco, Staff Representative, Union X, 555-4949.

H. Approved by:

Name*
Title

Name**
Title

Date

* Individual who has the necessary authority and responsibility in the company for such plan.

** Individual who has the necessary authority and responsibility in the union for such plan.

Continued...

Example of Unionized public sector plan with one male comparator from another pay equity plan, with basic information.

SAMPLE PAY EQUITY PLAN (#4)

JK SCHOOL BOARD

12 School Street
Abbots, Ontario

A. Date of posting and pay equity adjustments

This Pay Equity Plan was posted on January 1, 1990.

Pay equity adjustments are to begin on January 1, 1991.

B. Establishment

This plan refers to all the locations of the school board.

C. Jobs covered by this plan

This plan covers all unionized jobs of School Board Union, Local 1, of the JK School Board.

D. Gender-predominant job classes

The following job classes are female job classes:

Clerk Typist
Receptionist*
Bookkeeper

* In our case, the position of Receptionist, despite the fact that it is presently staffed by a male, is considered a female job class for the following reasons: historical incumbency and gender stereotyping of the job. Historical incumbency refers to the gender of the employees who have held a particular position over time, in our case a female has traditionally held the position of receptionist. Gender stereotype alludes to the existence or belief that a particular gender performs a particular kind of work. Receptionist work is viewed as work generally performed by females.

The following job classes are male job classes:

Teaching Assistant
Mail Room Clerk

Continued...

E. Method of comparison

The method of comparison used was Ranking by Factor Job Evaluation Method.

This method involves ranking all jobs, using a composite of the four criteria of skill, effort, responsibility and working conditions. The rankings on the four criteria are combined to develop a simple ranking of jobs.

The compensable factors were weighted as follows:

Skill	25%
Effort	25%
Responsibility	25%
Working Conditions	25%

F. Comparison results

The following male and female job classes were found to be of equal or comparable value.

FEMALE JOB CLASS	MALE JOB CLASS	DIFFERENCE IN COMPENSATION AT THE JOB RATE
Clerk Typist	Maintenance Worker*	\$ 3.00
Receptionist	Mail Room Clerk	\$ 2.00
Bookkeeper	No Male Comparator anywhere in the organization.	

*This comparator is from the pay equity plan covering unionized employees, Maintenance Union, Local 1, of the JK School Board and is used here because there is no male comparable job class within Clerical Union, Local 1.

Continued...

G. Pay equity adjustments

The estimated total payroll of the JK School Board is \$95,000,000.

The Pay Equity Act requires that one per cent of the total payroll (\$950,000) be set aside for pay equity adjustments.

See the attached Auditor's Statement for the breakdown of the one per cent pay equity payroll allocation. (Not included in sample plan.)

The Pay Equity Act, 1987 states that the female job class with the lowest job rate (Clerk Typist) shall receive increases in compensation that are greater than the increases under the Pay Equity Plan for other female job classes (Receptionist).

The annual estimated pay equity adjustment is the adjustment per hour (this will vary based on where individual incumbents are on the salary range/step structure) multiplied by the number of hours per week times 52 weeks in a year. At the JK School Board all the clerical job classes work 36.5 hours per week or 1,898 hours per year (36.5 X 52).

FEMALE JOB CLASS	PRESENT JOB RATE*	PAY EQUITY ADJUSTMENT FOR 1990	ADJUSTED PAY RATE FOR 1990	REMAINING PAY EQUITY ADJUSTMENT BASED ON CURRENT JOB RATE
Clerk Typist	\$ 5.00	\$ 1.30	\$ 6.30	\$ 2.70
Receptionist	\$ 6.00	\$ 0.30	\$ 6.30	\$ 1.70

*Job rate is defined by the Pay Equity Act Section 1(1) as the highest rate of compensation (salary plus benefits) for a job class.

Continued...

H. Cost of adjustments

FEMALE JOB CLASS	HOURLY PAY EQUITY ADJUSTMENT	TOTAL NUMBER OF HOURS PER YEAR	YEARLY PAY EQUITY ADJUSTMENT*	NUMBER OF EMPLOYEES	TOTAL PAY EQUITY COST (1993)
Clerk Typist	\$ 1.30	1,898	\$ 2,467.40	10	\$24,674.00
Receptionist	\$ 0.30	1,898	\$ 569.40	10	\$ 5,694.00

This amount equals 1% of payroll. \$30,368.00

*This will vary based on where individual incumbents are on the salary range/step structure.

I. For further information:

Richard Mahoney, Supervisor, 123-4567

J. Approval of plan

Name*
Title

Name**
Title

Date

* Individual who has the necessary authority and responsibility in the company for such plan.

** Individual who has the necessary authority and responsibility in the union for such plan.

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THE PAY EQUITY COMMISSION

Dispute
Resolution I –
Review Services

July 1989

PAY EQUITY IMPLEMENTATION SERIES #16

The implementation guidelines are intended to aid in the self-managed process — or, where bargaining agents are involved, the negotiated process — of achieving pay equity under the Pay Equity Act. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

PREAMBLE

There are two guidelines dealing with two elements of dispute resolution: Review Services and hearings before the Pay Equity Hearings Tribunal. This guideline deals with Review Services. Hearings before the Pay Equity Hearings Tribunal are discussed in the guideline that follows.

SIGNIFICANCE

The Pay Equity Act includes processes for the resolution of disputes which may arise in the course of establishing, implementing and maintaining pay equity plans. These may include a failure to agree on a negotiated plan, an objection to a plan posted by an employer, or complaints concerning implementation of a plan or violations of the Act. The resolution processes vary according to the nature of the dispute and the parties involved.

The Pay Equity Commission is composed of a Pay Equity Office and a Pay Equity Hearings Tribunal, two independent bodies with distinct functions and powers. Any complaint that is filed with the Commission will be forwarded to the Review Services Branch of the Pay Equity Office. Review Services will provide assistance to enable the parties to find a resolution of the issue(s) which confront(s) them. If this process is unsuccessful, the review officer has a number of options, including the making of an order. Either party objecting to a review officer's determination may request a hearing before the Pay Equity Hearings Tribunal.

Continued...

EXPLANATION

(I) How to ask for help in resolving a dispute

The "Application for Review Services" Form

Assistance in dispute resolution may be obtained by submitting an "Application for Review Services" form to the case co-ordinator of the Pay Equity Office. Forms are available from the Commission or any Ministry of Labour district office. A letter or telephone call will be accepted as an application from anyone who prefers such or is unable to obtain a copy of the form. All applications will be reviewed by the case co-ordinator to ensure that they are complete, before a review officer is assigned. The applicant will be contacted for clarification or if further information is necessary.

A copy of the application form is attached to this guideline:

- ▶ Part 1 requests information about the applicant. If the applicant is not an individual employee, the name of the person who should be contacted is required (e.g., a bargaining agent or agent acting for the employee).
- ▶ Part 2 requests information about the other party involved (the respondent), including a contact name.
- ▶ Part 3 is intended to give the Commission some idea of the nature of the dispute. If the applicant is unsure, a brief description under "Other" will suffice, and the exact basis for the application will be identified during the investigation.
- ▶ Part 4 requires the name and signature of the person submitting the form.
- ▶ Part 5 enables the applicant to request that his or her identity not be revealed to the respondent.

Anonymity is provided in sections 32(3) and (4) of the Act. These sections enable an employee, or group of employees, to appoint a person or organization to act as an agent before a review officer and/or the Hearings Tribunal, by submitting a written request. The Commission will not reveal the identity of an employee represented by an agent to the employer, if so requested. Agents will replace employees as parties to the proceedings, and they may take any of the actions which the Act allows employees.

An Overview of a Review Officer's Role

When the case co-ordinator receives an application, it will be assigned to a review officer by the director of Review Services. The review officer will contact the applicant to discuss the issue(s) involved. This telephone call may clarify an issue or suggest an avenue of approach, so that no further action by the review officer is required. The review officer will arrange a meeting between the parties if it is determined to be required. Meetings will usually be held at the employer's premises. The nature and extent of a review officer's involvement will depend on the specific needs of those who apply for assistance. The role of the review officer is to investigate, advise, mediate and, if necessary, order.

Continued...

(II) Types of disputes investigated by review officers

There are various types of disputes which may form the basis of an "Application for Review Services." Some types of complaints or objections are outlined below. As a result of a complaint, objection or failure to post a pay equity plan, a review officer may facilitate a settlement, make an order, advise the parties and the Hearings Tribunal that an order will not be made, or decide not to consider the complaint because, under section 23(3) of the Act, its subject matter is considered to be trivial, frivolous, vexatious or made in bad faith or because the complaint is not within the jurisdiction of the Commission.

Complaints or Objections Regarding Plan Preparation

The Act establishes separate methods of plan preparation for a bargaining unit and for non-union employees and, consequently, different processes for dispute resolution:

(a) Failure to agree on a pay equity plan (bargaining unit)

Employers must post pay equity plans in the workplace on or before the mandatory posting date specified in the Act. If a plan has not been agreed to by the applicable mandatory posting date, the employer must immediately inform the Commission of this failure to agree and to post a plan; bargaining agents may also notify the Commission. Plans are deemed approved by the Pay Equity Commission when they are agreed upon between the employer and the bargaining agent, and must be posted in the workplace. (See Implementation Series #15: Pay Equity Plans.)

Negotiations between employers and bargaining agents may require third party assistance (e.g., to decide whether a particular job class is a female or male job class). Either party may request the appointment of a review officer at any time prior to the mandatory posting date.

When a request is received, a review officer will be appointed to investigate and assist the parties in reaching a settlement. If a review officer is unable to effect a settlement between the parties, the officer may decide all outstanding matters by issuing an order. A copy of the plan that reflects the settlement or order must be posted by the employer. Review officers may also advise the parties and the Hearings Tribunal that an order will not be made, or may decide not to consider the complaint under the grounds listed in section 23(3).

(b) Objection to a plan prepared by an employer (non-union)

The Act provides a period of 90 days following the mandatory posting date for non-union employees to review their posted plan and submit comments to their employer. A non-union employee may bring to the employer's attention any disagreement he or she has with any of the elements of the plan.

Continued...

The employer must review employee comments and post a notice indicating whether any changes have been made to the plan; if changes have been made, the employer must post a copy of the amended plan. The notice may be posted at any time after receipt of the comments, but must be posted no later than seven days following the expiry of the 90-day review period.

During the 30 days immediately following the re-posting, one or more employees to whom the plan applies may object to the plan by filing an "Application for Review Services" form, or telephoning or writing the Commission. Parties who file an objection may include:

- An employee who submitted comments to the employer but who found the plan was not changed, or not changed to the employee's satisfaction; and/or
- An employee who has not submitted comments to the employer. This is one opportunity for an employee who does not want the employer to know that he or she has objections to the pay equity plan to file anonymously.

When a request is received, a review officer will be appointed to investigate and assist the parties to reach a settlement. If a review officer is not successful in effecting a settlement, the officer has a number of options, including the making of an order. A plan which reflects the settlement or order must be posted in the workplace. Section 9(2) ensures that no reprisal can be taken against employees who raise issues or complaints about a pay equity plan.

If the 30-day period following the re-posting passes without an objection being filed with the Commission, the plan is deemed approved by the Commission and is to be implemented by the employer according to its terms.

Complaints Regarding Plan Implementation

Plan implementation complaints may be filed with the Commission at any time. The dispute resolution process is the same in both union and non-union settings for any of these complaints.

(a) Complaint regarding implementation

An employer may fail to implement a posted plan according to its terms. For example, some adjustments in compensation indicated in the plan may not be made. A non-union employee, group of employees or bargaining agent may file this type of complaint.

Continued...

(b) Complaint that a plan is inappropriate due to changed circumstances

At any time after a plan is deemed approved, a non-union employee, group of employees or bargaining agent may file a complaint alleging that, because of a change of circumstances in the establishment, the plan is no longer appropriate for the female job class to which the applicant(s) belong(s), or for which the bargaining agent has bargaining rights. This type of complaint might arise from, for example, a job class which has changed due to new technology or from a newly created job class that could be used as a comparator.

Complaint Regarding a Contravention of the Act

An employer, employee, group of employees or bargaining agent may file a complaint with the Commission at any time that alleges a contravention of the Act, its regulations or an order of the Commission. Some examples of possible contraventions are:

- A reduction in compensation in order to achieve pay equity;
- A failure to establish and maintain compensation practices that provide for pay equity; and/or
- An allegation of intimidation by the employer because the complainant has exercised his or her rights under the Act.

In any of the preceding kinds of complaints, the following outcomes are possible:

- The review officer may effect a settlement between the parties.
- The review officer may decide not to consider a complaint because it is not within the jurisdiction of the Commission or because it is trivial, frivolous, vexatious or made in bad faith (section 23(3)).
- The review officer may make an order on the outstanding issue(s) (section 24).
- In some cases, the review officer may not effect a settlement and may decide not to make an order on the outstanding issue(s) (section 23(2)).

(III) When a resolution cannot be reached

Review Officers' Orders

Orders will vary, depending on the nature of the dispute. In general, an order will set out the steps the employer and bargaining agent, if any, must take to prepare or revise the plan or comply with the Act. Where a bargaining unit is involved, the order may be a determination of the issue(s) in dispute only, and a direction to the parties involved to complete the balance of the work required on their own. In such an event, the review officer would monitor the continued efforts of the parties to prepare and post their pay equity plan.

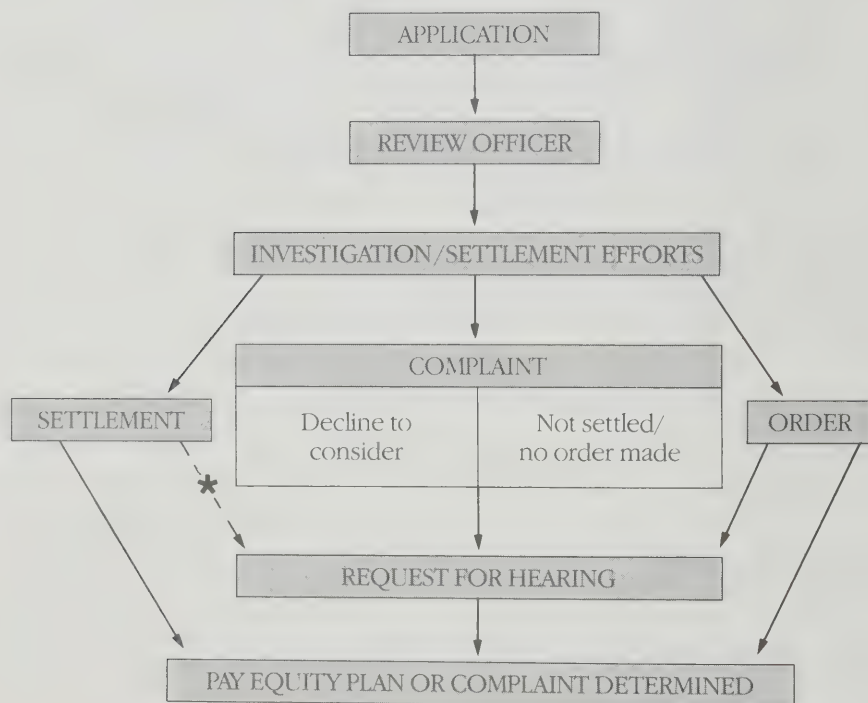
Continued...

All orders are binding and those made under section 16(2) must be posted by the employer on receipt from the Commission. If no objection to an order is received by the Commission within 30 days of its posting, it is considered to have been accepted by the parties affected and implementation of the terms of the order must commence.

Requesting a Hearing Before the Pay Equity Hearings Tribunal

Following the parties' review of the order or decision made by a review officer, a request for a hearing may be made to the Pay Equity Hearings Tribunal regarding the issue(s) in dispute. The procedure for the conduct of hearings before the Tribunal is covered in Implementation Series #17: Dispute Resolution II — Pay Equity Hearings Tribunal. For further information on the Pay Equity Hearings Tribunal, parties may contact the Tribunal office.

DISPUTE RESOLUTION PROCESS



*Sec. 16 (4) (2): In non-union plan preparation, another employee may file an appeal.

Continued...

RELEVANT SECTIONS OF THE ACT

Section 14

(1) Establishments with bargaining units

In an establishment in which any of the employees are represented by a bargaining agent, there shall be a pay equity plan for each bargaining unit and a pay equity plan for that part of the establishment that is not in any bargaining unit.

(2) Bargaining unit plans

The employer and the bargaining agent for a bargaining unit shall negotiate in good faith and endeavour to agree, before the mandatory posting date, on,

- (a) the gender-neutral comparison system used for the purposes of section 12; and
- (b) a pay equity plan for the bargaining unit.

(3) Idem

As part of the negotiations required by subsection (2), the employer and the bargaining agent may agree, for the purposes of the pay equity plan,

- (a) that the establishment of the employer includes two or more geographic divisions; and
- (b) that a job class is a female job class or a male job class.

(4) Posting of plan

When an employer and a bargaining agent agree on a pay equity plan, they shall execute the agreement and, on or before the mandatory posting date, the employer shall post a copy of the plan in the workplace.

(5) Deemed approval and first adjustments

When a pay equity plan has been executed by an employer and a bargaining agent, the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

(6) Failure to agree

Where an employer and a bargaining agent fail to agree on a pay equity plan by the mandatory posting date, the employer, forthwith after that date, shall give notice of the failure to the Commission.

(7) Idem

Subsection (6) does not prevent the bargaining agent from notifying the Commission of a failure to agree on a pay equity plan by the mandatory posting date.

Continued...

(8) Non-bargaining unit plan

An employer shall prepare a pay equity plan for that part of the employer's establishment that is outside any bargaining unit in the establishment and, on or before the mandatory posting date, shall post a copy of the plan in the workplace.

(9) Idem

Subsections 15(2) to (8) apply to a pay equity plan described in subsection (8). 1987, c. 34, s. 14.

Section 15

(1) Establishments without bargaining units

In an establishment where no employee is represented by a bargaining agent, the employer shall prepare a pay equity plan for the employer's establishment and the employer, on or before the mandatory posting date, shall post a copy of the plan in the workplace.

(2) Idem

For the purposes of a pay equity plan required by this section or subsection 14(8), the employer may decide,

- (a) that the establishment of the employer includes two or more geographic divisions; and
- (b) that a job class is a female job class or a male job class.

(3) Idem

An agreement under section 14 between an employer and a bargaining agent shall not affect any pay equity plan required by this section or subsection 14(8).

(4) Employee review

The employees to whom a pay equity plan required by this section or subsection 14(8) applies shall have until the ninetieth day after the mandatory posting date to review and submit comments to the employer on the plan.

(5) Changes

If as a result of comments received during the review period referred to in subsection (4), the employer is of the opinion that a pay equity plan should be changed, the employer may change the plan.

(6) Posting of notice

Not later than seven days after the end of the review period referred to in subsection (4), the employer shall post in the workplace a notice stating whether the pay equity plan has been amended under this section and, if the plan has been amended, the employer shall also post a copy of the amended plan with the amendments clearly indicated.

Continued...

(7) Objections

Any employee or group of employees to whom a pay equity plan applies, within thirty days following a posting in respect of the plan under subsection (6), may file a notice of objection with the Commission whether or not the employee or group of employees has submitted comments to the employer under subsection (4).

(8) Deemed approval and first adjustments

If no objection in respect of a pay equity plan is filed with the Commission under subsection (7), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.
1987, c. 34, s. 15.

Section 16

(1) Investigation by review officer and settlement

If the Commission,

- (a) is advised by an employer or a bargaining agent that no agreement has been reached on a pay equity plan under section 14; or
- (b) receives a notice of objection under subsection 15(7),

a review officer shall investigate the matter and endeavour to effect a settlement.

(2) Orders by review officer

If the review officer is unable to effect a settlement as provided for in subsection (1), he or she shall, by order, decide all outstanding matters.

(3) Posting of plan

Where a review officer effects a settlement under subsection (1) or makes an order under subsection (2), the employer shall forthwith post in the workplace a copy of the pay equity plan that reflects the settlement or order.

(4) Objections

Where a pay equity plan has been posted under subsection (3), objections with respect to the plan may be filed with the Commission within thirty days of the posting as follows:

1. If the plan relates to a bargaining unit, objections may be filed only if the review officer has made an order under subsection (2) and only the employer or the bargaining agent for the bargaining unit may file objections.

Continued...

-
2. If the plan does not relate to a bargaining unit and a review officer effected a settlement under subsection (1) with the agreement of the objector who filed the objection under subsection 15(7), only an employee or group of employees to whom the plan applies, other than the objector, may file an objection.
 3. If the plan does not relate to a bargaining unit and a review officer has made an order under subsection (2), the employer or any employee or group of employees to whom the plan applies may file an objection.

(5) Deemed approval and first adjustments

If a review officer effects a settlement of a pay equity plan for a bargaining unit under subsection (1) or, if in any other case, no objection in respect of a pay equity plan is filed with the Commission in accordance with subsection (4), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

(6) Idem

Where adjustments in compensation are made after the day provided for in the pay equity plan, the employer shall make the adjustments retroactive to that date. 1987, c. 34, s. 16.

Section 22

(1) Complaints

Any employer, employee or group of employees, or the bargaining agent, if any, representing the employee or group of employees, may file a complaint with the Commission complaining that there has been a contravention of this Act, the regulations or an order of the Commission.

(2) Idem

Any employee or group of employees, or the bargaining agent, if any, representing the employee or group of employees, may file a complaint with the Commission complaining with respect to a pay equity plan that applies to the employee or group of employees that,

- (a) the plan is not being implemented according to its terms; or
- (b) because of changed circumstances in the establishment, the plan is not appropriate for the female job class to which the employee or group of employees belongs.

Continued...

Section 23

(1) Investigation of complaints

Subject to subsection (2), when the Commission receives a complaint, a review officer shall investigate the complaint and may endeavour to effect a settlement.

(2) Idem

The review officer shall notify the parties and the Hearings Tribunal as soon as he or she decides that a settlement cannot be effected and that he or she will not be making an order under subsection 24(3).

(3) Decision to not deal with complaint

A review officer may decide that a complaint should not be considered if the review officer is of the opinion that,

- (a) the subject matter of the complaint is trivial, frivolous, vexatious or made in bad faith; or
- (b) the complaint is not within the jurisdiction of the Commission.

(4) Hearing before Tribunal

The review officer shall notify the complainant of his or her decision under subsection (3) and the complainant may request a hearing before the Hearings Tribunal with respect to the decision. 1987, c. 34, s. 23.

Section 24

(1) Orders by review officers

Where a review officer is of the opinion that a pay equity plan is not being prepared as required by Part II, the review officer may order the employer and the bargaining agent, if any, to take such steps as are set out in the order to prepare the plan.

(2) Idem

Where a review officer is of the opinion that a pay equity plan is not being implemented according to its terms, the review officer may order the employer to take such steps as are set out in the order to implement the plan.

(3) Idem

Where a review officer is of the opinion that there has been a contravention of subsection 7(1) or (2), the review officer may order the employer and the bargaining agent, if any, to take such steps as are set out in the order to comply with either or both of those subsections.

(4) Idem

An order under subsection (1) may provide for a mandatory posting date that is later than the one provided in section 10.

Continued...

(5) Reference to Tribunal

Where an employer or a bargaining agent fails to comply with an order under this section, a review officer may refer the matter to the Hearings Tribunal.

(6) Hearing before Tribunal

An employer or bargaining agent named in an order under this section may request a hearing before the Hearings Tribunal with respect to the order, and, where the order was made following a complaint but the complaint has not been settled, the complainant may also request a hearing. 1987, c. 34, s. 24.

Section 32

(3) Representation

An employee or a group of employees may appoint any person or organization to act as the agent of the employee or group of employees before the Hearings Tribunal or before a review officer.

(4) Idem

Where an employee or group of employees advises the Hearings Tribunal in writing that the employee or group of employees wishes to remain anonymous, the agent of the employee or group of employees shall be the party to the proceeding before the Hearings Tribunal or review officer and not the employee or group of employees.

(5) Idem

Where subsection (4) applies, the agent, in the agent's name, may take all actions that an employee may take under this Act including the filing of objections under Part II and the filing of complaints under Part IV.
1987, c. 34, s. 32.

Section 34

(1) Review officers, designation

The head of the Pay Equity Office shall designate one or more employees of the Office to be review officers.

(2) Review officers, duties

Review officers shall monitor the preparation and implementation of pay equity plans, shall investigate objections and complaints filed with the Commission, may attempt to effect settlements and shall take such other action as is set out in this Act or in an order of the Hearings Tribunal.

Continued...

(3) Powers

A review officer, for the purpose of carrying out his or her duties,

- (a) may enter any place at any reasonable time;
- (b) may request the production for inspection of documents or things that may be relevant to the carrying out of the duties;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them;
- (d) may question a person on matters that are or may be relevant to the carrying out of the duties subject to the person's right to have counsel or some other representative present during the examination; and
- (e) may provide in an order made under subsection 16(2) or 24(1) that any job class is a female job class or a male job class.

(4) Non-application of R.S.O. 1980, c. 484

The Statutory Powers Procedure Act does not apply to a review officer and he or she is not required to hold a hearing before making an order authorized by this Act. 1987, c. 34, s. 34.

Section 35

(1) Entry to dwellings

A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section.

(2) Warrant for search

Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of a review officer's duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing the review officer named in the warrant to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed.

(3) Warrant for entry

Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that a review officer may carry out his or her duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing such entry by the review officer named in the warrant.

Continued...

(4) Execution and expiry of warrant

A warrant issued under this section,

(a) shall specify the hours and days during which it may be executed; and

(b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

(5) Obstruction

No person shall hinder, obstruct or interfere with a review officer in the execution of a warrant or otherwise impede a review officer in carrying out his or her duties under this Act.

(6) Idem

Subsection (5) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (2).

(7) Admissibility of copies

Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts. 1987, c. 34, s. 35.

REFERENCES

Implementation Series #15: Pay Equity Plans

Implementation Series #17: Dispute Resolution II —
Pay Equity Hearings Tribunal

FOR FURTHER INFORMATION CALL

Pay Equity Hotlines:

Ontario-wide (toll free) 1-800-387-8887
1-800-387-8813

Toronto area (416) 481-3314
(416) 481-3315

Ce document est
également disponible en français



Pay
Equity
Commission

Pay
Equity
Office

Application for Review Services

This information is collected under the authority of the **Pay Equity Act, 1987** for the purpose of its enforcement. For information concerning the collection and use of this information, please contact Legal Counsel, Pay Equity Office, 150 Eglinton Avenue East, Toronto, Ontario M4P 1E8. Telephone: (416) 481-4464.

Please Note: If you require assistance to complete this form please call 481-4464 in the Toronto area or 1-800-387-8813 toll free outside the Toronto area. No documentation is required with this application.

Part 1 — Applicant Information

You are: (Check ☒ one)

- ☐ The Employer
☐ A Bargaining Agent
☐ An Employee, or a Group of Employees, not represented by a Bargaining Agent
☐ An Agent Acting for Employee(s) — Section 32(3)

Name of Applicant	Name of Person to Contact
Address	Position of Person to Contact
Postal Code	Telephone Number of above

Part 2 — Respondent Information

The Respondent is: Check (☒) one. ☐ The Employer ☐ A Bargaining Agent

Name of Respondent	Name of Person to Contact
Address	Position of Person to Contact
Postal Code	Telephone Number of above

Part 3 — This Application is Based on: (Check (☒) one).

- ☐ Failure to reach agreement during negotiations for a Pay Equity Plan, between an Employer and a Bargaining Agent — Section 16 (1) (a).
☐ Notice of objection by an Employee or Group of Employees, not represented by a Bargaining Agent, to a Pay Equity Plan posted by the Employer — Section 16 (1) (b).
☐ A complaint that there has been a contravention of the **Pay Equity Act 1987**, the Regulations or an order of the Commission — Section 22 (1).
☐ A complaint that a Pay Equity Plan is not being implemented according to its terms — Section 22 (2) (a).
☐ A complaint that a Pay Equity Plan is not appropriate because of changed circumstances in the Establishment — Section 22 (2) (b).
☐ Other — Please describe:

Part 4 — Submission

Name of Person Submitting this Application (Print)	Signature	Date
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Mail completed form to: Case Coordinator, Pay Equity Office, 150 Eglinton Avenue East, Toronto, Ontario, M4P 1E8

Part 5 — Confidentiality

If you are an Employee, or a Group of Employees, not represented by a Bargaining Agent, may the Pay Equity Office disclose your name to your Employer?

☐ YES ☐ NO

NOTE: A copy of this Application will be forwarded to the Respondent in Part 2 if you have checked "YES".

OFFICE USE ONLY

Date Received	<input type="checkbox"/> Form <input type="checkbox"/> Letter <input type="checkbox"/> Telephone	Received By (Initial)	File No.
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THE PAY EQUITY COMMISSION



Dispute
Resolution II –
Pay Equity
Hearings
Tribunal

July 1989

PAY EQUITY IMPLEMENTATION SERIES #17

The implementation guidelines are intended to aid in the self-managed process — or, where bargaining agents are involved, the negotiated process — of achieving pay equity under the Pay Equity Act. They will not restrict the Pay Equity Hearings Tribunal in its review of cases.

Examples and illustrations are given only to suggest possible options. There are many other options that may be appropriate for a particular establishment.

PREAMBLE

There are two guidelines dealing with two elements of dispute resolution: Review Services and hearings before the Pay Equity Hearings Tribunal. This guideline deals with hearings before the Pay Equity Hearings Tribunal. The preceding guideline deals with dispute resolution concerning Review Services.

SIGNIFICANCE

The Pay Equity Commission, created by the Pay Equity Act, 1987, consists of two parts: the Pay Equity Hearings Tribunal and the Pay Equity Office, which includes the Review Services Branch. The two parts are separate and independent of each other.

The Hearings Tribunal is a quasi-judicial body and has exclusive jurisdiction to determine all questions of fact or law that arise in any matter before it. The action or decision of the Hearings Tribunal is final and conclusive for all purposes.

EXPLANATION

Structure of the Hearings Tribunal

The Hearings Tribunal consists of a chair, one or more vice-chairs and equal numbers of members representative of employers and members representative of employees appointed by the Lieutenant Governor in Council.

Continued...

Tripartite panels consisting of a chair, a member representative of employers and a member representative of employees will be established to hear each case. The members of each panel are expected to bring to the hearing process their expertise gained through experience in the workplace. They are not to be partisans nor advocates for their constituency in a particular case. Rather, the aim of the Hearings Tribunal is to achieve consensus in decision making.

The mission statement of the Hearings Tribunal is as follows:

The purpose of the Pay Equity Act is to redress systemic gender discrimination in compensation. Its implementation would contribute to a fair and more productive workplace, where women and men may achieve equality.

The goals of the Pay Equity Act can best be achieved through the co-operation of employers, bargaining agents and employees. The Pay Equity Hearings Tribunal is committed to encouraging settlement between the parties and will provide a final and binding mechanism to resolve disputes.

The Hearings Tribunal is committed to a hearing process and to decisions which balance the need to be fair, accessible and efficient. The Hearings Tribunal will engage in an active program of outreach to the community to monitor the achievement of its goals.

The Hearings Tribunal is committed to attracting and retaining qualified, interested and capable individuals. The professional commitment of these individuals will be fostered through collegial working relationships and by the provision of a quality working life.

Management of Cases

A complaint or objection concerning pay equity which is received by the Pay Equity Commission will be acknowledged and sent to the Pay Equity Office. A review officer will be appointed and will investigate and attempt to settle the issue(s) in dispute. In general, if a review officer is unable to settle the matter, the officer may make an order on the outstanding issues, may notify the parties and the Hearings Tribunal that he or she has decided that a settlement cannot be effected and that he or she will not be making an order, may refer the matter to the Hearings Tribunal, may determine that the subject matter of the complaint is trivial, frivolous, vexatious or made in bad faith, or may decide that the Commission does not have jurisdiction with respect to the complaint (see Implementation Series #16: Dispute Resolution I — Review Services).

Continued...

The Hearings Tribunal is required to hold a hearing:

- ▶ If a party requests a hearing following an order of a review officer;
- ▶ If a review officer has notified the parties and the Hearings Tribunal that he or she has decided that a settlement cannot be effected and that he or she will not be making an order;
- ▶ If the matter has been referred to the Hearings Tribunal by a review officer;
- ▶ If a party disagrees with a decision of a review officer that the subject matter of the complaint is trivial, frivolous, vexatious or made in bad faith, or disagrees that the Commission does not have the jurisdiction with respect to the complaint;
- ▶ If the Hearings Tribunal receives an objection to a posted plan, where the plan has been dealt with by a review officer;
- ▶ If a party fails to comply with an order of a review officer;
- ▶ If a person seeks the consent of the Hearings Tribunal to institute a prosecution for an offence under the Act;
- ▶ In any other circumstances provided by the Pay Equity Act, 1987.

After extensive consultations, the Hearings Tribunal has established Rules of Practice for the conduct of cases and forms to assist persons in complying with the Rules. Copies of the Rules and Forms are attached to this guideline. The Rules and Forms are also available in French.

Rules of Practice

Decisions of the Hearings Tribunal will be based on the evidence adduced at the hearing. In order to expedite proceedings, responsibility for serving documents is placed with the parties, not with the Hearings Tribunal. A party requesting a hearing will be required to set out the facts, events and issues which form the basis of the application, but not the evidence in the case (Form 1). Each respondent is required to complete a response setting forth the facts, events and issues on which it relies (Form 2). A party may choose to file a reply to the facts, events and issues raised in a response. A party will not be permitted to raise a fact, event or issue which is not set out in the application, response or reply, except with the leave of the Hearings Tribunal. The requirement to define the issues in advance of a hearing, sometimes referred to as "scoping" a hearing, is a necessary step to focus and limit what otherwise could result in protracted and costly hearings.

The Hearings Tribunal will often hold a prehearing conference to identify and narrow the issues, to obtain agreement on the facts, events and documents, to encourage the exchange of all relevant documents, and to identify and attempt to resolve procedural and preliminary objections. The vice-chair who conducts the prehearing conference will not preside at the hearing.

Continued...

The Hearings Tribunal will hold hearings in regional centres within Ontario. Parties will be asked where they wish the hearing to be held, and to estimate the number of hearing dates based upon the complexity of the case, the number of witnesses and the extent of the submissions. The Registrar will set the date, time and place for the hearings, which will usually be held on consecutive days. Normally, the Registrar will consult with the parties and will consider the needs of the parties, the witnesses and the Hearings Tribunal. Every attempt will be made to schedule the first day of a hearing within 60 days of receipt of the initial request for a hearing.

Proceedings should be accessible to the hearing and vision impaired and the Hearings Tribunal will provide services in French upon request. Interpreters may be requested for witnesses who speak neither English nor French.

The Hearings Tribunal is committed to an ongoing process of consultation with the community with respect to its procedures, which may be modified based upon the experience in order to better achieve the goals of fairness, accessibility and efficiency.

REFERENCES

Implementation Series #16: Dispute Resolution I — Review Services

FOR FURTHER INFORMATION WRITE OR CALL

The Registrar
Pay Equity Hearings Tribunal
150 Eglinton Avenue East
Suite 550
Toronto, Ontario
M4P 1E8

Ontario-wide (toll free) 1-800-668-3946

Toronto area (416) 481-4276

Fax Number (416) 324-6741

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Pay Equity
Hearings
Tribunal

**Application
Request for Hearing**
Form 1
(Page 1 of 7)

NOTES

1. Any communication with respect to this Application should be addressed to:

The Registrar
Pay Equity Hearings Tribunal
150 Eglinton Avenue East
Suite 550
Toronto, Ontario
M4P 1E8

Phone Number (416)481-4276
1-(800)668-3946 (Toll Free)
Fax Number (416)324-6741

- 2a. This Application, or a letter containing all information requested in it, must be completed by any employee(s), trade union(s) or employer(s) requesting a hearing before the Tribunal.
- b. In the event that the Review Services Branch of the Pay Equity Commission has referred your complaint or objection to the Tribunal for a hearing in the matter, you are still required to provide the information requested.
- c. Failure to complete this Application will result in a delay in processing of the Application, may result in a delay in hearing the matter, and may result in dismissal of the case.
3. You must state in this Application all the facts, events and issues upon which you intend to rely. Other parties will respond to your Application and you will be served with a copy of their Response (Tribunal Form 2).

The Tribunal's Rules of Practice state, in part:

- 1.03** A party will not be permitted to raise a fact, event, or issue not set out in the Application, Response or Reply except with leave of the Tribunal.
- 3.01** Any party may prepare a Reply to the facts, events, and issues which were raised in a Response.
- 3.02** The Reply shall be served on the parties within fourteen (14) days of having been served with the Response. Immediately thereafter, the Reply, together with a Statement of Service (Tribunal Form 4), shall be filed with the Tribunal.

4. You must serve a copy of this Application on all parties named in your Application. Service may be made by personal delivery, courier, facsimile copier, mail or document exchange (see Tribunal Rules of Practice – Rule 6). Your failure to complete and attach a Statement of Service (Tribunal Form 4) for each party will result in delay.
5. The information contained in this Application for a hearing is not confidential. The Tribunal may arrange for notice of your Application to be posted in the workplace or forwarded to parties you have not named in your Application, if the Tribunal has reason to believe they may be affected by your Application.



**Application
Request for Hearing**
Form 1
(Page 2 of 7)

NOTES

6. An employee or group of employees who wish to remain anonymous may appoint an agent to act on their behalf. An agent may be any person or organization chosen by an employee or a group of employees. The Tribunal must be notified that an agent has been appointed. (Please see the Tribunal's Rules of Practice – Rule 4.)
7. If the party making this Application is the employer and if the Application concerns a pay equity plan for non-unionized employees then:
 - a) The Respondent (section 3 of this form) is normally the employee or group of employees who raised the matter with the Review Officer. Name only the individual(s) who have been directly discussing the pay equity plan with you in the Review Officer's proceedings.
 - b) In section 3 of this form, Other Parties, indicate that "other employees to whom the plan relates may be involved". To the extent possible provide a description to identify this group (e.g. all non-bargaining unit employees in Kitchener). Do not list all potentially involved employees by name. The Tribunal may prepare a Notice of this Application for posting by the employer in the workplace.
8. If the party making this Application is **not** the employer and if the Application concerns a pay equity plan for non-unionized employees then:
 - a) the Respondent (section 3 of this form) is normally the employer.
 - b) In section 3 of this form, Other Parties, indicate that "other employees to whom the plan relates may be involved". To the extent possible, provide a description to identify this group (e.g. all non-bargaining unit employees in Kitchener). Do not list all potentially involved employees by name. The Tribunal may prepare a Notice of this Application for posting by the employer in the workplace.
9. The Tribunal will acknowledge receipt of this Application and advise you of the Tribunal File Number which will be assigned. Please use this File Number in all future correspondence.
10. Please note that your comments in section 4, Case Summary, and section 5, Particulars, may overlap to some extent. The purpose of section 4 is to have a summary of the reason for your request for a hearing, for the ease of all parties in identifying the prime purpose of your application.

Section 5, Particulars, requires that you detail all facts, events and issues upon which you will rely in a hearing so as to prove your allegation. You do not need to disclose to the other parties the evidence which you would produce to prove or support your facts, events or issues.
11. The collection of this information is pursuant to the Pay Equity Act, 1987 for the principal purpose of the conduct of proceedings before the Pay Equity Hearings Tribunal. Questions about this collection should be directed to: The Registrar, Pay Equity Hearings Tribunal.



**Application
Request for Hearing**
Form 1
(Page 3 of 7)

File Number

For Office Use Only

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Name of employee(s), trade union or employer making this request for a hearing. (Attach a list if this Application is on behalf of a group of employees.) Leave blank if you are an employee or group of employees applying anonymously – complete only the **Lawyer or Other Agent** part of this section.

Name

Street Address

City/Province

Postal Code

Telephone No. Area Code

Fax. No. Area Code

Name of Contact Person

Lawyer or Other Agent – If a lawyer, or other agent is acting on your behalf, complete this section.

Name

Name of firm, if appropriate

Street Address

City/Province

Postal Code

Telephone No. Area Code

Fax. No. Area Code

2

Please
Check
(☒)

Why are you Requesting a Hearing?

- i ☐ Objection to any **order** made by a Review Officer (where the order does not set the terms of a pay equity plan).
- ii ☐ Objection to the terms contained in a pay equity **plan** (where the terms of the plan were ordered by a Review Officer).
- iii ☐ Objection to the terms contained in a pay equity **plan** (where the terms of the plan were **not** ordered by a Review Officer).
- iv ☐ Objection to a **decision** by a Review Officer that the subject matter of a complaint or objection was trivial, frivolous, vexatious, made in bad faith, or not within the jurisdiction of the Commission.
- v ☐ Claim that, because of changed circumstances, the pay equity plan is not appropriate for a female job class.
- vi ☐ Advised by Review Officer that she or he is **referring** the matter to the Tribunal.
- vii ☐ Matter has **not** been **settled** by a Review Officer, **nor** has there been an **order** or **decision**.
- viii ☐ Non-compliance with a Review Officer's order, an order of the Tribunal, or with a posted pay equity plan.
- ix ☐ Other, please specify _____



Application
Form 1 - continued
(Page 4 of 7)

File Number

For Office Use Only

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Name the employee(s), trade union(s) or employer(s) who you believe are parties to this proceeding.
(See section 32 of the Pay Equity Act, 1987.) Attach additional sheets if necessary.

Respondents

Name

Street Address

City/Province

Postal Code

Telephone No.

Area Code

Fax. No.

Area Code

Name of Contact Person (if known)

Lawyer or Other Agent, if known:

Name of Lawyer or Agent

Name of firm, if appropriate

Street Address

City/Province

Postal Code

Telephone No.

Area Code

Fax. No.

Area Code

Other Parties

Other employee(s), trade union(s) or employer(s), who may be involved, if any.

Name

Street Address

City/Province

Postal Code

Telephone No.

Area Code

Name of Contact Person, if known

Street Address

City/Province

Postal Code

Telephone No.

Area Code

Name of Lawyer or other Agent, if known

Street Address

City/Province

Postal Code

Telephone No.

Area Code

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Describe briefly the reason for your request for a hearing. Attach separate sheet if necessary.

Note: You must complete the Particulars (Section 5) of this Application.



Application
Form 1 – continued
(Page 5 of 7)

File Number

For Office Use Only

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The Respondent and Other Parties to this Application are entitled to know the facts, events and issues upon which you base your objection or complaint. This should include: what did or did not happen, who was involved, and when and where these events took place. Do not include the evidence intended to prove these facts, events and issues.

Please note: You will not be able to raise a fact, event or issue not set out in this Application, without leave of the Tribunal.

Attach additional pages, if necessary.

Date of Review Officer's Order or Decision, if one was issued D M Y
/ /

File Number Assigned by Review Services

Review Officer's Name

If possible, attach a copy of the Review Officer's Order or Decision, or the Pay Equity Plan to which you are objecting.

☐ Copy Attached

☐ Copy NOT Available



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How do you wish the **order, decision, or plan** changed? Describe what you wish the Tribunal to order as a result of this Application. Include all monetary and other redress you seek.

Attach additional pages, if necessary.

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Do you wish the hearing of this matter, or any part thereof, to be conducted in French?

☐ Yes

☐ No

Will you or any witness(es) of yours require translation services in order to give evidence at the hearing?

☐ Yes

☐ No

Will you or any witness(es) of yours require any special services – for example, services for the hearing or vision impaired, or wheelchair access?

☐ Yes

☐ No

If you answer Yes to any of the questions above, please describe the service requested.

The Tribunal will attempt to accommodate you, but may not be able to meet your specific request(s).

The Tribunal will normally hold hearings in the following regional centres: Kingston, London, North Bay, Ottawa, Sarnia, Sault Ste. Marie, Sudbury, Timmins, Thunder Bay, Toronto and Windsor. A decision on the location of the hearing will be based upon the needs of the parties, the witnesses and the Tribunal.

In which city would you prefer the hearing? _____

Reason for preference _____



Application
Form 1 - continued
(Page 7 of 7)

File Number _____

For Office Use Only

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Are you aware of any other requests for a hearing before the Pay Equity Hearings Tribunal relating to this proceeding?

☐ Yes

☐ No

If Yes, please identify the proceeding to which you are referring.

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Other statements you wish to make.

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This document consists of _____ pages in total, including the 7 pages of this Application. To the best of my knowledge, it is complete and accurate. Statements of Service (Form 4) for each party are attached.

Dated at _____ this _____ day of _____ 19____
(town, city, etc.) (date) (month)

Name (Please print)

Signature

Position Title

For Office Use Only



Pay Equity
Hearings
Tribunal

Response to Request for Hearing

Form 2
(Page 1 of 7)

NOTES

1. Any communication with respect to this proceeding should be addressed to:

The Registrar
Pay Equity Hearings Tribunal
150 Eglinton Avenue East
Suite 550
Toronto, Ontario
M4P 1E8

Phone Number (416)481-4276
1-(800)668-3946 (Toll Free)
Fax Number 1-(416)324-6741

2. The Application to which you are responding has been assigned a Tribunal File Number by the Pay Equity Hearings Tribunal. Please use this File Number in all future correspondence.
3. This Response, or a letter containing all information requested in it, must be completed by any employee(s), trade union(s) or employer(s) responding to an Application.
4. You must state in this Response all the facts, events and issues upon which you intend to rely. Other parties may reply to your Response and you will be served a copy of their Reply.

The Tribunal's Rules of Practice state, in part:

- 2.04 A party will not be permitted to raise a fact, event, or issue not set out in the Application, Response or Reply except with leave of the Tribunal.
 - 3.01 Any party may prepare a Reply to the facts, events, and issues which were raised in a Response.
 - 3.02 The Reply shall be served on the parties within fourteen (14) days of having been served with the Response. Immediately thereafter, the Reply, together with a Statement of Service (Tribunal Form 4), shall be filed with the Tribunal.
 - 16.02 Where a party who has been properly served with the documentation required by these Rules fails to respond in writing as set out, the Tribunal may proceed in the party's absence and without further notice.
5. The information contained in this Response is not confidential. The Tribunal may arrange for copies of your Response to be forwarded to parties you have not named in your Response, if the Tribunal has reason to believe they may be affected by the Application.
 6. An employee or group of employees who wish to remain anonymous may appoint an agent to act on their behalf. An agent may be any person or organization chosen by an employee or a group of employees. The Tribunal must be notified that an agent has been appointed. (Please see the Tribunal's Rules of Practice - Rule 4.)



Response to Request for Hearing

Form 2

(Page 2 of 7)

NOTES

7. If the Applicant has not named (in section 3 of the Application, Other Parties) an employee, trade union, employer or other participant who you believe may be involved in this matter, please contact the Registrar immediately. That individual or organization will be contacted by the Tribunal and may respond to the Application. In addition to contacting the Registrar, please name in section 4 of this form the individual or organization who you believe may be involved.
8. If the employees to whom a disputed pay equity plan relates are not represented by a trade union, do not list all the employees by name in section 4 of this form. Indicate in section 4 that "other employees to whom the pay equity plan relates may be involved". To the extent possible, provide a description to identify this group (e.g. all non-bargaining unit employees in Kitchener). The Tribunal may prepare a Notice of the Application for posting in the workplace by the employer.
9. You must serve a copy of this Response on all parties named in the Application and on all parties named by you who do not appear in the Application. Service may be made by personal delivery, courier, facsimile copier, mail or document exchange (see the Tribunal Rules of Practice – Rule 6).
10. Please note that your comments in section 5, Case Summary, and Section 6, Particulars, may overlap to some extent. The purpose of section 5 is to have a summary of your response to the issues raised in the Application, for the ease of all parties in identifying the basis of your Response.

Section 6, Particulars, requires that you detail all facts, events and issues upon which you base your response, including those facts, events and issues which have not been raised by any other party, but will be raised by you. You do not need to disclose to the other parties the evidence which you would produce to prove or support your facts, events or issues.
11. The collection of this information is pursuant to the Pay Equity Act, 1987 for the principal purpose of the conduct of proceedings before the Pay Equity Hearings Tribunal. Questions about this collection should be directed to: The Registrar, Pay Equity Hearings Tribunal.

**Response to
Request for Hearing
Form 2
(Page 3 of 7)**

Please Provide Tribunal File Number

Please Print Information Clearly

1

BETWEEN:

APPLICANT(S)

- AND -

RESPONDENT(S)

- AND -

OTHER PARTY(IES)

2

Correct name of employee(s), trade union or employer making this Response. (Attach a list if the Response is on behalf of a group of employees.) Leave blank if you are an employee or group of employees responding anonymously – complete only the **Lawyer or Other Agent** part of this section.

Name

Street Address

City/Province

Postal Code

Area Code

Telephone No. | | | - | | | - | | |

Fax. No.					-					-				
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Name of Contact Person

If a **Lawyer, or Other Agent** is acting on your behalf, complete the following this section:

Name of Lawyer or Agent

Name of firm, if appropriate

Street Address

City/Province

Postal Code

Area Code

Telephone No. | | | | - | | | - | | |

Fax. No. Area Code



**Response to
Request for Hearing**
Form 2 – continued
(Page 4 of 7)

Please Provide Tribunal File Number

3

STATUS

Have you been named as

A) Respondent
B) Other Party

☐ Yes
☐ Yes

☐ No
☐ No

Check (✓) one – (see Section 32 of the **Pay Equity Act, 1987**).

Are you:

- ☐ the employer
☐ the bargaining agent (if the plan relates to a bargaining unit)
☐ employee(s) to whom the plan relates (if the plan does not relate to a bargaining unit)

➔ If you have checked one of these, go to Section 4.

➔ If you have not checked one of these, describe who you are – check (✓) one.

- ☐ other employee(s) ☐ a trade union ☐ an employer
☐ other (please describe): _____

Why are you seeking to be added as a party to this proceeding? Describe how you might be affected by the outcome of the proceeding. Attach additional pages, if necessary.

Now, continue to Section 4.

4

OTHER
PARTIES

Name the employee(s), trade union(s), or employer(s) who you believe are parties to this proceeding. (See Section 32 of the **Pay Equity Act, 1987**.) Attach additional sheets if necessary. It is not necessary to identify parties already named elsewhere.

Name

Street Address

City/Province

Postal Code

Telephone No. Area Code
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Fax. No. Area Code
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Name of Contact Person, if known

Street Address

City/Province

Postal Code

Telephone No. Area Code
| | | | - | | | | |

Name of Lawyer or other Agent, if known

Street Address

City/Province

Postal Code

Telephone No. Area Code
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5

SUMMARY
CASE

Describe briefly your response to each issue raised in the Application. Attach separate sheet if necessary.

Note: You must complete the Particulars (Section 6) of this Response.



**Response to
Request for Hearing**
Form 2 - continued
(Page 5 of 7)

Please Provide Tribunal File Number

6

The Applicant and Other Parties to this matter are entitled to know the basis of your Response to the Application. Provide below a clear and concise statement of the facts, events and issues which form the basis of your Response (including those facts, events and issues not raised by the Applicant or Other Parties). Do not include the evidence intended to prove the facts, events and issues.

Please note: You will not be able to rely upon a fact, event or issue not set out in this Response, without leave of the Tribunal.

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Attach additional pages, if necessary.



**Response to
Request for Hearing**
Form 2 - continued
(Page 6 of 7)

Please Provide Tribunal File Number

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Describe the remedy or disposition you seek. Include all monetary and other redress.

Attach additional pages, if necessary.

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Do you wish the hearing of this matter, or any part thereof, to be conducted in French?

☐ Yes

☐ No

Will you or any witness(es) of yours require translation services in order to give evidence at the hearing?

☐ Yes

☐ No

Will you or any witness(es) of yours require any special services – for example, services for the hearing or vision impaired, or wheelchair access?

☐ Yes

☐ No

If you answer Yes to any of the questions above, please describe the service requested.

The Tribunal will attempt to accommodate you, but may not be able to meet your specific request(s).

The Tribunal will normally hold hearings in the following regional centres: Kingston, London, North Bay, Ottawa, Sarnia, Sault Ste. Marie, Sudbury, Timmins, Thunder Bay, Toronto and Windsor. A decision on the location of the hearing will be based upon the needs of the parties, the witnesses and the Tribunal.

In which city would you prefer the hearing? _____

Reason for preference _____



**Response to
Request for Hearing**
Form 2 – continued
(Page 7 of 7)

Please Provide Tribunal File Number

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Are you aware of any other requests for a hearing before the Pay Equity Hearings Tribunal relating to this proceeding?

☐ Yes

☐ No

If Yes, please identify the proceeding to which you are referring.

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Other statements you wish to make.

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This document consists of _____ pages in total, including the 7 pages of this Response. To the best of my knowledge, it is complete and accurate. Statements of Service (Form 4) for each party are attached.

Dated at _____ this _____ day of _____ 19____
(town, city, etc.) (date) (month)

Name (Please print)

Signature

Position Title

For Office Use Only



Pay Equity
Hearings
Tribunal

Summons to Witness before the Pay Equity Hearings Tribunal Form 3

(Page 1 of 2)

Pay Equity Act, 1987

Please Print Information Clearly

Please Provide Tribunal File Number

Formulaire également disponible
en français

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BETWEEN:

APPLICANT(S)

- AND -

RESPONDENT(S)

- AND -

OTHER PARTY(IES)

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To:

(name of witness)

(address of witness)

(address of witness - continued)

You are hereby summoned and required to attend before the **Pay Equity Hearings Tribunal** at a hearing to be held at _____

in the _____ of _____

on _____ day, the _____ day, of _____ 19, _____,

at the hour of _____ o'clock in the _____ noon (local time), _____,

and so from day to day until the hearing is concluded or the tribunal otherwise orders, to give evidence on oath touching the matters in question in the proceedings and to bring with you and produce at such time and place,

Dated this _____ day of _____, 19____.

Pay Equity Hearings Tribunal

Date

Member of Tribunal

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If you fail to attend and give evidence at the hearing, or to produce the documents or things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Supreme Court in the same manner as if for contempt of that court for disobedience to a subpoena.

You are entitled to be paid the same personal allowances for your attendance at the hearing as are paid for the attendance of a witness summoned to attend before the Supreme Court.



Pay Equity
Hearings
Tribunal

PAY EQUITY ACT, 1987

Formulaire également disponible
en français

SUMMONS TO WITNESS BEFORE THE PAY EQUITY HEARINGS TRIBUNAL

Form 3
(Page 2 of 2)

NOTE: These allowances are set out in Tariff A to the Ontario Rules of Practice and are currently:

<u>I t e m</u>	<u>A m o u n t</u>
Attendance money actually paid to a witness who is entitled to attendance money, to be calculated as follows:	
(i) Attendance allowance for each day of necessary attendance;	\$ 50
(ii) Travel allowance, where the hearing or examination is held,	
(a) in a city or town in which the witness resides, for each day of necessary attendance;	\$3.00
(b) within 300 kilometres of where the witness resides, per kilometre each way between his or her residence and the place of hearing or examination;	24 cents
(c) more than 300 kilometres from where the witness resides: each way from his or her residence, to the airport and from the airport to the place of hearing or examination.	the minimum return air fare plus 24 cents per kilometre
(iii) Overnight accommodation and meal allowance, where the witness resides elsewhere than the place of hearing or examination and is required to remain overnight, for each overnight stay	\$ 75

3. If you require translation services in order to give evidence at the hearing, please inform the party who requested the issuance of this summons, as identified below.

This summons was issued at the request of, and inquiries may be directed to:

Name

Address

Area Code

Telephone No.

| | | | - | | | - | | |



Pay Equity
Hearings
Tribunal

Statement of Service Form 4

Please Provide Tribunal File Number,
if known

Please Print Information Clearly

NOTE

The purpose of this statement is to verify that a copy of a document was delivered to a party. A Statement of Service (Tribunal form 4) or a statement containing all the information required in this form, must be completed for every document served, for each party. In addition, a copy of the facsimile cover transmission record, or the courier or postal receipt may be required as evidence to support this statement.

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BETWEEN:

APPLICANT(S)

- AND -

RESPONDENT(S)

- AND -

OTHER PARTY(IES)

2

Acting on behalf of: Check (✓) one: ☐ Applicant ☐ Respondent ☐ Other Party

I state that I served : _____
(name of person served)

who represents : _____
(name of party served)

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1. What was served - Check (✓) one: ☐ Application ☐ Response ☐ Reply

☐ Report of an Expert Witness

☐ Other (specify): _____

2. Method of Service - Check (✓) one:

☐ Personal Delivery

☐ Courier (including Priority Post)

☐ Facsimile copier (FAX)

☐ Regular Mail

☐ Certified Mail

☐ Registered Mail

☐ Document Exchange

☐ Other (specify method and time frame agreed to by Tribunal or Registrar): _____

3. Name of courier, agent or service used: _____

4. Time document(s) sent: _____ a.m./p.m.

5. Date document(s) sent: _____ of _____, 19 _____.
(date) (month)

6. If personal delivery, address where you served document(s): _____

4

Dated at _____ this _____ day of, _____ 19 _____.
(location) (date) (month)

Name of Person Who Served (Please print)

Signature of Person Who Served

Position of Person Who Served



Affidavit of Personal Service Form 5

Please Provide Tribunal File Number

Please Print Information Clearly

NOTE

The purpose of this Affidavit is to verify that a copy of the document named was personally served on the person named. An Affidavit of Personal Service must be prepared for service of a summons.

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BETWEEN:

APPLICANT(S)

- AND -

RESPONDENT(S)

- AND -

OTHER PARTY(IES)

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I, _____, of the _____
(full name) (city, town)
of _____, in the _____
(name of city, town) (county, regional municipality)
of _____,
(name of county, regional municipality)

SWEAR or AFFIRM THAT:

(1) At _____ a.m. / p.m. on the _____ day of _____, 19____
(time) (date) (month)

I personally served _____
(name of person served)

with a copy of the _____
(name of document served)

at _____
(location where document was served)

(2) I was able to identify* the person by _____
(state means of identification)

(3) For a Summons, I paid the appropriate attendance monies, to the person named above.

*An individual may be identified if the individual responds affirmatively to the question: "Are you (name on summons)?".

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Sworn (or Affirmed) before me at the _____
(city, town, etc.)

of _____
(county, district, regional municipality, etc.)

on this _____ of _____, 19____
(date) (month)

Signature of Commissioner, etc.

Signature of person serving



Pay Equity
Hearings
Tribunal

Statement of Posting

Form 6
Please Print Information Clearly

Tribunal File Number

Formulaire également
disponible en français

1 CASE NAME	BETWEEN:	APPLICANT(S)
	- AND -	RESPONDENT(S)
	- AND -	OTHER PARTY(IES)
2 DECLARATION	I, _____ hereby declare that:	
	(1) I am the _____ of the employer.	
	(2) I posted _____	
	(number) _____ (kind) _____	
	notices as provided to me by the Tribunal in conspicuous places, where they are most likely to come to the attention of employees who are affected by the application.	
Dated at _____, this _____ day of _____ 19____.		
(place) (date) (month)		
Signature _____		

2160 MO10 (03/89)



Pay Equity
Hearings
Tribunal

Statement of Posting

Form 6
Please Print Information Clearly

Tribunal File Number

Formulaire également
disponible en français

1 CASE NAME	BETWEEN:	APPLICANT(S)
	- AND -	RESPONDENT(S)
	- AND -	OTHER PARTY(IES)
2 DECLARATION	I, _____ hereby declare that:	
	(1) I am the _____ of the employer.	
	(2) I posted _____	
	(number) _____ (kind) _____	
	notices as provided to me by the Tribunal in conspicuous places, where they are most likely to come to the attention of employees who are affected by the application.	
Dated at _____, this _____ day of _____ 19____.		
(place) (date) (month)		
Signature _____		

2160 MO10 (03/89)

Name _____

Address _____

The Registrar

Pay Equity Hearings Tribunal

150 Eglinton Avenue East

Suite 550

Toronto, Ontario

M4P 1E8

2160 MO10 (03/89)

Name _____

Address _____

The Registrar

Pay Equity Hearings Tribunal

150 Eglinton Avenue East

Suite 550

Toronto, Ontario

M4P 1E8

2160 MO10 (03/89)

WILSON
GENUINE HILL BOARD GIN
SAT. 11:30 AM

AGG. CANADIAN COMPANY LTD.
TORONTO
CHICAGO, W.G., CHICAGO, LONDON

